

DHS NEPA Categorical Exclusions  
DHS MD 023-01

**Instructions:** Section I is to be completed and signed by the Project Proponent for the Proposed Action. Sections II, III, IV, and V are to be completed and signed by agency environmental staff that are working on the Proposed Action, and finally signed by the CBP NEPA Document Signature Authority. Continue on separate sheets if necessary.

**PROJECT NAME:** *RGV\_MCA\_Mcallen-Anzalduas Floodway Vegetation Control*

**SECTION I –Proponent Information**

1. Project Proponent:  U.S. Customs and Border Protection Office of Border Patrol	2. Project Manager (PM):  (b) (6), (b) (7)(C), Program Manager, COR Border Patrol Facilities and Tactical Infrastructure Facilities Management and Engineering Tactical Infrastructure Division (Maintenance & Repair)	2a. PM Contact Info (phone/email):  (b) (6), (b) (7)(C)
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3. Title of Proposed Action:  
*RGV\_MCA\_Mcallen-Anzalduas Floodway Vegetation Control*

4. Description of Proposed Action and Alternatives: (Sufficient information must be provided to answer Section II.)  
*Response:*  
McAllen/Anzalduas Floodway is maintained as a floodway to relieve high water conditions at the Anzalduas dam. It is a highly disturbed, area predominantly devoted to agriculture (Figure 1). Often times after crops are harvested; rainy periods cause outbreaks of dense and tall weeds. Customs and Border Protection is planning to maintain the lines of site by mowings as needed up to three (3) times annually.

(b) (7)(E) *This project will provide for vegetation control and will consist of mowing and hand removal of vegetation along the access road shoulders and near the levee wall structures that bound the two sides of this floodway. Vegetation will be mowed to a height of not less than (b) (7)(E) from the natural ground to ensure continued unimpaired visibility and enhanced security. Mowing in these areas will be accomplished using a side boom mower or bush hog followed by a standard shredder to reduce the cut vegetation cane to the desired height. There will be from 0-3 mowing events per year depending on weather conditions, height of vegetation, and Border Patrol requirements. Bird nesting surveys will be conducted by contracted personnel when activities occur from March 1 through September 1 – the migratory bird nesting season. No surface soil disturbance is expected. The areas to be mowed are within the aegis of the agreement that has already been issued by the IBWC or located on Federal property.*

*No Action Alternative: Not performing this work could result in impaired visibility of a high traffic area and provide access points and related security concerns, leave important infrastructure vulnerable to cross-border attacks, and provide a hazardous working environment for Agents and other personnel.*

*Alternative mowing procedures: Mowing at a higher height will still provide cover for illicit activities.*

5. Purpose and Need for Proposed Action:  
*Response: As stated above, the work is needed to improve visibility, enhance security of important infrastructure, and safeguard Agents and other personnel.*

6. Environmental Manager/Project Manager (Name and Title):  (b) (6), (b) (7)(C) Environmental Branch Chief Border Patrol Facilities and Tactical Infrastructure Program Management Office	6a. Signature:  (b) (6), (b) (7)(C)	6b. Date:  August 11, 2013
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**SECTION II—Environmental Staff: Proposed Action Clearly Fits a Category of Excludable Actions (DHS MD 023-01)**

7.  The entire Proposed Action clearly fits within the category of excludable actions set forth as Categorical Exclusion (CatEx) #D3 in DHS MD 023-01.  
 The entire Proposed Action does not clearly fit within any of the categories of excludable actions set forth in DHS MD 023-01.

*Remarks:*  
The entire Proposed Action clearly fits within the category of excludable actions set forth as Categorical Exclusion (CATEX) in DHS MD 023-01 which state:  
*D3: Repair and maintenance of Department-managed buildings, roads, airfields, grounds, equipment, and other facilities which do not result in a change in functional use or an impact on a historically significant element or setting (e.g. replacing a roof, painting a building).*

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*resurfacing a road or runway, pest control activities, restoration of trails and firebreaks, culvert maintenance, grounds maintenance, existing security systems, and maintenance of waterfront facilities that does not require individual regulatory permits). If the Proposed Action extends beyond the scope of this REC, additional analysis will be required under the National Environmental Policy Act of 1969, as amended, and the DHS Directive 023-01. If any cultural resources or archeological artifacts are found during mowing activities at the site, work will cease and the BPFTI Environmental Branch will be contacted for direction and guidance. The BPFTI Environmental Branch will make appropriate notifications to the State Historic Preservation Officer and any affected Native American tribes.*

**SECTION III—Environmental Staff: Analysis as to Whether the Proposed Action is a Part of a Larger Action (DHS MD 023-01)**

8.  Proposed Action Is Not a Piece of a Larger Action OR  
 Proposed Action Is a Piece of a Larger Action.

Remarks:

*The proposed mowing control project is not part of a larger action, and will not result in any significant environmental impact (direct or indirect) when added to other past, present and reasonably foreseeable actions known at this time.*

**SECTION IV—Environmental Staff: Extraordinary Circumstances Analysis (DHS MD 023-01)**

9. Extraordinary Circumstances:

- Based on my review of the information that has been provided to me and that I have in my possession, no extraordinary circumstances apply to the Proposed Action (see A through K below); OR  
 Based on my review of the information that has been provided to me and that I have in my possession, at least one extraordinary circumstance does apply to the Proposed Action (see A through K below). Therefore, a CatEx does NOT apply.

YES	NO	For A through K below, check the appropriate box (Yes or NO) and provide description as appropriate.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	A. Will the Proposed Action have a potentially significant effect on public health or safety? <i>Remarks: Any project-specific hazard(s) affecting project workers will be reduced based on strict adherence to Occupational Health and Safety Standards and other relevant safety laws, rules and regulations.</i>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	B. Will the Proposed Action significantly affect species or habitats protected by the Endangered Species Act, Marine Mammal Protection Act, the Migratory Bird Treaty Act, or the Magnuson-Stevens Fishery Conservation and Management Act?  <i>Remarks: This work will not have any negative impacts on any of the ESA species known to be present in the area or their habitat. The proposed actions will take place on previously disturbed area. According to the U.S. Fish &amp; Wildlife Service threatened and endangered species database for Hidalgo County, the only listed species are the ashy dogweed, Gulf Coast jaguarondi, Johnston's frankenia, least tern, and ocelot. This site does not have habitat suitable for any of these species. Based on the lack of suitable habitat for listed species in the project area and the completely previously disturbed nature of the site, the proposed actions will have no effect on protected species or habitats. Project activities might temporarily disrupt local wildlife but no measurable negative effect is likely. The proposed actions and alternatives will not conflict with any local policies or ordinances protecting biological resources. All work undertaken between March 1 and September 1 will be preceded by an MBTA survey. If any migratory birds or active nests are identified appropriate action will be taken to avoid take and to mitigate adverse impacts. BPFTI Environmental Branch will coordinate with USFWS to determine if maintaining the areas with multiple mowings would require formal consultation. This CATEX activity should be re-assessed in 5 years.</i>  Review and concurrence from: <span style="background-color: black; color: white; padding: 2px;">(b) (6)</span>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	C. Will the Proposed Action significantly affect a district, site, highway, structure, or object that is listed or eligible for listing in the National Register of Historic Places, or will it significantly affect historic or cultural resources, traditional or sacred sites, or result in the destruction of a significant scientific, cultural, or historic resource?  <i>Remarks: The Proposed Action consists of only routine mowing, does not require any ground disturbing activities, and will not result in a change in the functional use of the parcel. The Texas Historical Atlas and the National Register of Historic Places (NRHP) database were searched for historic properties. There are no NRHP-listed historic properties within the area of potential effect; therefore CBP has determined that there will be no adverse effects to historic properties. Regarding archaeological resources, minimal ground disturbance will occur during mowing; therefore CBP has determined that there will be no adverse effects to archaeological resources.</i>  Action review: Completion of database search by Northland Research (Appendix B).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	D. Will the Proposed Action significantly affect an environmentally sensitive area? <i>Remarks: No designated critical habitat or habitat suitable for any Federal or state listed species will be impacted. No waters of the United States or wetland areas will be impacted. Only minor impacts are expected.</i>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	E. Will the Proposed Action result in a potential or threatened violation of a federal, state, or local law or administrative determination imposed for protection of the environment? <i>Remarks: The proposed action will fully comply with all applicable laws and regulations. U.S. Border Patrol personnel will consult with BPFTI Environmental Branch personnel regarding mowing and oversee contractor actions.</i>



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Attachment 1 – Aerial Photos

Figure 1 – Aerial Photograph

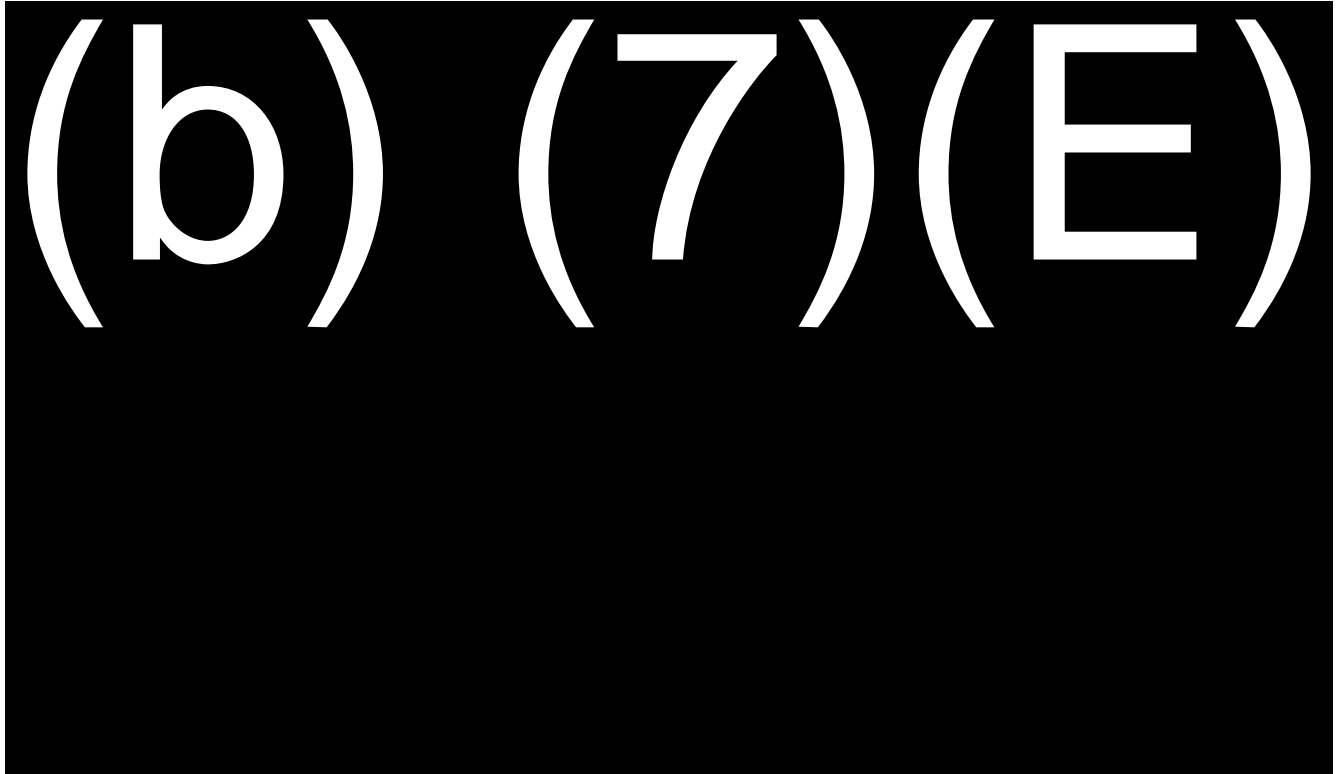


Figure 2 –Photograph, Site Conditions at McAllen/Anzalduas Floodway



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Figure 3 –Photograph, Ground Conditions showing growing salt cedars slated for mowing.



Appendix A. Biological Concurrence

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(b) (6)

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From: (b) (6)  
Sent: Tuesday, July 16, 2013 11:40 AM  
To: (b) (6), (b) (7)(C)  
Cc: (b) (6)  
Subject: Biological Concurrence RGV\_MCA\_Mcallen-Anzalduas Floodway Vegetation Control CATEX

I visited the site June 25, 2013. It is a highly disturbed site mainly devoted to agriculture. This work will not have any negative impacts on any of the ESA species known to be present in the area or their habitat. The proposed actions will take place on previously disturbed area. According to the U.S. Fish & Wildlife Service threatened and endangered species database for Hidalgo County, the only listed species are the ashy dogweed, Gulf Coast jaguarondi, Johnston's frankenia, least tern, and ocelot. This site does not have habitat suitable for any of these species. Based on the lack of suitable habitat for listed species in the project area and the completely previously disturbed nature of the site, the proposed actions will have no effect on protected species or habitats. Project activities might temporarily disrupt local wildlife but no measurable negative effect is likely.

(b) (6)

Senior Consultant

**LMI**

2000 Corporate Ridge  
McLean, VA 22102

(b) (6)

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Appendix B - Cultural Resources Review

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**MEMORANDUM – IDENTIFICATION OF HISTORIC PROPERTIES**

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**CBP POC:** (b) (6), (b) (7)(C)  
**FROM:** (b) (6), (b) (7)(C)  
**PROJECT:** DESK SURVEY, WO 07, MCALLEN/ANZALDUAS FLOODWAY  
**DATE:** 26 AUGUST 2013

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**Proposed Project:** Ground clearing of four properties in the Rio Grande Valley Sector near McAllen and Brownsville, Texas. Three properties have a previous land use of agriculture. These recently abandoned properties are presenting a visibility hazard for US Border Patrol Agents, and Border Patrol has requested mowing to maintain these fallow agricultural fields at a low vegetation height. The remaining property is IBWC flood control Levee. This area is routinely mowed by IBWC, but the US Border Patrol intends to increase the frequency of mowing along these levees. Mowing in all cases will be accomplished by large bush hogs, or side deck mowers. None of these areas have trees large enough to require removal other than by mowing. No ground disturbance is anticipated.

**Project Location:**

**Reports/Databases Reviewed:**

Name of Report/Database	Date of Report/ Date of Last Database Update
Texas Historical Commission Data Base	2008

**Data Identified:**

**McAllen/Anzalduas Floodway-** The project area has not been previously surveyed for archaeological resources. A single survey for a flood control project (Report 2008-05-20) was conducted along the entire southern extent of the project area in 2008. One historical site-41HG230, the Old Military Road-crosses through the center of the project area. The site was recommended as eligible for inclusion in the National Register under criterion A and criterion D in 2009 by the recorders; however this linear site intersects US Highway 83 and is paved over in locations. Texas SHPO has determined that the portions of this site within the ROW of Highway 83 are not eligible for inclusion. There are no extraordinary conditions that would require a pedestrian cultural resources survey.

**Results:**

Based on a review of available data for the area of potential effect (APE) associated with the proposed project identified in this document, the following is concluded: *[Select the most appropriate statement]*

- No** prior documented studies were completed within the APE of the proposed undertaking. Therefore, it is not possible to determine, without further investigation, whether there are historic properties within the APE.
- Prior documented studies were completed within the APE of the proposed project/undertaking and **No** historic properties were identified within the APE of the proposed project/undertaking.
- Prior documented studies were completed within the APE of the proposed project/undertaking and historic properties were identified within the APE of the proposed project/undertaking.

Based on a review of the proposed project/undertaking and available information/data for the APE, it is the reviewer's professional opinion: *[Select the most appropriate statement]*

- The action is not an undertaking per the Section 106 process (36 CFR, Section 800.3)
- Sufficient data is not currently available for the agency to make a determination of affect from the proposed undertaking.
- The identified historic properties **will not** be affected from the proposed undertaking. *[Provide brief explanation for the determination]*
- The identified historic properties **may be** affected from the proposed undertaking. *[Provide brief explanation for the determination]*
- The identified historic properties **will be** affected from the proposed undertaking. *[Provide brief explanation for the determination]*



(b) (7) (E)