



U.S. Customs and  
Border Protection

1300 Pennsylvania Avenue NW  
Washington, D.C. 20229

March 17, 2023

The Honorable Bernard F Barcena Jr.  
Lipan Apache Tribe of Texas  
PO Box 5218  
McAllen, TX 78502  
bbarcena@lipanapache.org

**SUBJECT: Notification of CBP Proposed Undertaking – Temporary Fencing and Floating Fence in El Paso, Texas (*CBP El Paso Station*)**

Dear Chairman Barcena:

Pursuant to Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108) and its implementing regulations (36 Code of Federal Regulations [C.F.R.] Part 800), U.S. Customs and Border Protection (CBP) is transmitting this letter and accompanying enclosures to initiate consultation for the installation of 0.68 miles of 8-foot-high temporary fencing and relocating 18-foot-high bollard “floating barriers” for the El Paso Station of the U.S. Border Patrol (USBP) El Paso Sector.

**Description of Undertaking**

The Proposed Undertaking consists of installing 0.68 miles of 8-foot-high temporary fencing and relocating 18-foot-high bollard “floating barriers” for the El Paso Station of the USBP El Paso Sector (see enclosure). Previously, a gap existed between where the new EPT 4-mile bollard wall ends, southwest of the Leon Wasteway Spillway, and the existing pedestrian fence (PF 225 Tactical Infrastructure (TI) Segment K-1C) wire mesh fence located approximately 76 yards north of the EPT 4-mile bollard barrier. Installation of the temporary fence within the gap started on December 13, 2022 and was completed on December 18, 2022 in response to a humanitarian safety emergency. The temporary fencing consists of chain link style fence material attached to footed posts that sits above ground. The temporary fence will be removed once replaced with the floating barrier.

Currently, the floating fence consists of 18-foot-high bollard in concrete k-rail type block foundation, the blocks lock together to form a fence that is placed above ground to “float” instead of permanently installed in place. The floating fence is currently located on the northern side of BNSF Railway and will be relocated to the southern side of BNSF easement and railway. The floating fence will be lifted from the current position with a crane and moved over the railroad line and installed in place of the current temporary fence and provide fencing along existing International Boundary and Water Commission (IBWC) irrigation structures and fill the

gap between the existing permanent barrier infrastructure in El Paso Station Zone 20. The floating fence and associated footprint will maintain a minimum of 9 feet horizontal offset distance from the centerline of existing BNSF train tracks. A fiber optic communication cable will be installed approximately 3 feet below grade in proximity and parallel to the floating fence for the entire length of the project.

**Area of Potential Effects**

Pursuant to National Historic Preservation Act regulations (36 C.F.R §§ 800.4(a)(1) and 800.16(d)), CBP has determined that the Area of Potential Effects (APE) for both above-ground and below-ground and historic or cultural resources is along the international border between the U.S. and Mexico. The APE is located completely within the previously disturbed area and is approximately 60 feet extending to a depth of 3 feet (see **Figure 1** in the enclosure). Additionally, the APE covers a 750-foot radius around each shelter. Ground disturbance will be required as part of the Proposed Undertaking.

**Identification and Evaluation of Historic Resources**

The project area was examined for cultural resources in the past as part of the 2015 *Archeological Investigations of Proposed Bridge 17 for the Loop 375 Border Highway West Extension within the USIBWC Administered Rio Grande Floodplain in the City of El Paso, El Paso County, Texas* conducted by ACI Consulting. Based on this survey the El Paso segment is passes through one previously recorded archaeological site (41EP7118). This finding is shown in **Table 1**.

**Table 1. Cultural Resource Sites near the Project Area**

Cultural Site	Site Number	NRHP Eligibility	Impact
<b>El Paso Station</b>			
Domestic Historic Levee with Mixed Debris	41EP7118	Ineligible	Will be avoided

Site 41EP7118 was recorded in 2015 by the Texas Department of Transportation. Based on a review of cultural resource studies, one previously recorded site is located within the Proposed Action boundaries in El Paso. The domestic, historic levee is approximately 350 feet northwest of the intersection of Calleros Court and the railroad tracks. The levee is on IBWC property, west of the border barrier, canal and tracks, and east of the Rio Grande River. Numerous artifacts collected from the site were analyzed dating the materials from between roughly the late 1890s at the earliest through the 1940s. Most of the diagnostics were from the 1920s through the 1940s. Because of the disturbed nature of site and lack of features and integrity, site 41EP7118 is recommended as ineligible for inclusion on the NRHP.

**Inadvertent Discoveries**

A monitor will be present during these activities to ensure that no unanticipated cultural resources are disturbed. An Unanticipated Discovery Plan will be part of the monitoring plan developed prior to construction activities.

If human remains are inadvertently discovered at any time during the installation of 0.68 miles of 8-foot-high temporary fencing and fiber optic cable, and during the relocation of the 18-foot-high

bollard floating barriers, CBP field personnel will immediately contact their Environmental Lead for specific instructions. Construction may not resume until directed to proceed by a CBP Manager. Law enforcement agencies as well as the Texas Historical Commission will be notified and will follow the provisions of the Native American Graves and Repatriation Act (NAGPRA; 25 U.S.C. § 3001) and Chapter 711 of the Texas Health and Safety Code (including Section 711.011).

All construction contractors or operators will cease construction activities and prevent the destruction or damage of these discovered resources. CBP field personnel will immediately contact their Environmental Lead for specific instructions. Construction may not resume until directed to proceed by a CBP Manager. The Texas Office of Historic Preservation's office will be contacted immediately in either case, should any discoveries be made during construction.

### **Effect Determination**

Pursuant to 36 C.F.R. 800.4(d)(1), CBP has made the determination there will be no adverse effect on Historic Properties located in, or near, the APE. No National Register-eligible cultural resources will be affected by the fiber installation since the existing features have continued to be avoided throughout the extensive development of the border infrastructure. A monitor will be present during these activities to ensure that no unanticipated cultural resources are disturbed. An Unanticipated Discovery Plan will be a part of the monitoring plan developed prior to construction activities.

### **Conclusion**

We respectfully request your comments within 30 days. If no response is received by CBP within 30 days, your concurrence will be presumed. If you have any questions, please contact me at 202-425-1669, [michelle.l.barnes@cbp.dhs.gov](mailto:michelle.l.barnes@cbp.dhs.gov); U.S. Customs and Border Protection, Border Patrol HQ, 1300 Pennsylvania Ave NW 6.5E Mail Stop 1039, Washington, DC 20229, Attn: *Michelle Barnes*. We also request you provide an electronic copy of your response to Ms. Barnes at [michelle.l.barnes@cbp.dhs.gov](mailto:michelle.l.barnes@cbp.dhs.gov) and copy Ms. Johna Hutira at [jhutira@dawsonohana.com](mailto:jhutira@dawsonohana.com).

We appreciate your feedback and help with evaluating the potential impacts of this project.

Sincerely,

A handwritten signature in black ink that reads "Shelly Barnes". The signature is written in a cursive style with a long, sweeping underline.

Shelly Barnes on behalf of  
Paul Enriquez  
Director, Infrastructure Program  
Program Management Directorate Office  
U.S. Border Patrol  
Enclosed: Map of Project Area

**Enclosure**  
**Figure 1: Map of the Project Area**

