



TESTIMONY OF

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“Opening the Flood Gates: Biden’s Broken Border Barrier”

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Introduction

Chairman Higgins, Chairman Bishop, Ranking Member Correa, Ranking Member Ivey, and Members of the Subcommittee, thank you for the opportunity to discuss U.S. Customs and Border Protection's (CBP) use of physical barriers as part of the U.S. Border Patrol's (USBP) critical role in securing our borders between the ports of entry along the Southwest Border.

The border environment in which CBP works is dynamic and requires continual adaptation to respond to emerging threats and changing conditions. CBP's multifaceted border security approach along the Southwest Border not only prioritizes investments in personnel, modern technology, and infrastructure, but also non-material capabilities such as domestic and foreign partnerships, and efficient intelligence and information sharing, critical to addressing the complex border environment and enhancing our detection and interdiction of unlawful cross-border activities. These investments increase CBP's ability to detect illegal activity along the border, increase our operational capabilities, and improve the safety of frontline law enforcement personnel.

Each USBP sector along the Southwest Border is different, with different terrain, natural barriers, egress routes from the immediate border area, and varying threats and operational conditions. While some sectors may be better served by more personnel, others might benefit from increased technology, such as Autonomous Surveillance Towers, that could monitor remote areas more easily, or counter-unmanned aerial system (C-UAS) technologies to detect and mitigate the illicit use of drones. When placed in strategic areas, physical barriers work in conjunction with detection technology and other attributes to support USBP's ability to protect the border against unlawful entries into the United States, often providing agents additional time to carry out law enforcement resolutions. USBP evaluates each unique operating environment and consults with field commanders on what is necessary in their particular area of responsibility to allow for the best mix of resources in any given sector.

Border Barrier System

As part of an integrated "border barrier system," physical barriers, whether in the form of a steel bollard, levee fencing, or other designs, are typically complemented by attributes such as a tailored array of surveillance and detection technology, and all-weather roads and lighting. These system components work together to increase USBP's domain awareness, access and mobility, and ability to impede and/or deny unlawful entries.

Border Barrier Requirements and Acquisition Process

USBP leverages a robust requirements management process, including the Capability Gap Analysis Process (CGAP), to identify areas of the border where gaps in capability create vulnerabilities or risks to border security or border security operations. The process engages USBP field personnel at all levels, soliciting input that is used to generate operational requirements and, ultimately, inform the development of effective, efficient, material and/or nonmaterial border security solutions. USBP continues to mature its requirements management capability, which began with CGAP in 2014, to identify capability gaps, generate

requirements to address those gaps and ultimately identify solutions, such as technology and/or the deployment of border barrier system, to meet those requirements.

Assessments of new attributes as well as periodic assessments of deployed material and nonmaterial solutions help CBP better evaluate how well a deployed solution meets technical parameters and addresses identified requirements. This process is critical for ensuring CBP makes informed decisions related to acquiring the most effective and best value technology and barrier solutions and attributes tailored to specific locations along the Southwest Border.

CBP has also implemented a complementary Decision Support Tool 2 (DST2) to prioritize investments in border barrier system solutions to address identified vulnerabilities across the Southwest Border. The tool applies several weighted categories that address operational needs and takes into account the current infrastructure laydown as well as metrics of known flows of unlawful cross-border activity. The tool is comprehensive considering both quantitative and qualitative operational factors, everything from vanishing times,¹ total known flow, narcotics seizure information, agent assaults, to ability to contain and deny entries and many other factors. The scoring created by this tool supports the prioritization and decision-making process through an established governance structure that layers the appropriate strategy and latest intelligence on changing operational conditions over the raw scoring of the tool. Once the prioritized list is established, CBP considers land acquisition, engineering feasibility, environmental factors, and cost/affordability in developing its acquisition approach.

Using the identified and prioritized border barrier system requirements, CBP executes a deliberative acquisition program in accordance with DHS's acquisition management directives and processes.² The process also breaks down the acquisition program into stages allowing for approval (or disapproval, as appropriate) of procurement recommendations and close oversight of the execution of contracts and the deployment of infrastructure and technology by the Acquisition Decision Authority.

Border Wall Plan

On January 20, 2021, President Biden issued Presidential Proclamation 10142, *Termination of Emergency with Respect to the Southern Border of the United States and Redirection of Funds Diverted to Border Wall Construction*. Since that time, DHS issued its Border Wall Plan Pursuant to Presidential Proclamation 10142 (the Plan)³ and has authorized CBP to resume several barrier projects necessary to address life, safety, environmental or other remediation measures in accordance with the Plan.

DHS approved an amendment⁴ to the Plan on July 11, 2022, that allows for additional uses of Fiscal Year (FY) 2018-2021 appropriations to prioritize environmental remediation and

¹ The amount of time an individual who has unlawfully crossed the border generally has before they have access to shelter and/or transport. Depending on the operational environment, this could vary from minutes to hours.

² DHS Directive 102-01, https://www.dhs.gov/sites/default/files/2022-03/22_0321_cio_acquisition-management-directive.pdf.

³ <https://www.dhs.gov/publication/department-homeland-security-border-wall-plan-pursuant-presidential-proclamation-10142>

⁴ <https://www.dhs.gov/publication/amendment-dhs-border-wall-plan-pursuant-presidential-proclamation-10142>

mitigation, as well as to install system attributes such as lighting, cameras, and detection technology in places where barrier was constructed but the planned system attributes were left incomplete at the time of the pause. Procurement actions and construction projects are underway across seven of USBP's Southwest Border sectors to support this work. As of July 1, 2023, CBP has closed 68 gates and gaps in the border barrier, and we are working to close an additional 61 gates and gaps along with life, safety, environmental and other remediation activities at incomplete border barrier construction sites.

Furthermore, CBP has been able to use some of the previously procured construction materials for current projects. For example, CBP has been able to utilize previously procured steel bollards for projects such as the Yuma Hill Gap Closure Project. CBP is also using other materials such as rip-rap (rock/aggregate), gate hardware and operators, and some concrete culvert pipes for make-safe projects at incomplete former Department of Defense project sites. In accordance with the Plan, CBP will continue to evaluate if remaining materials from former projects will be disposed of or used for any possible future projects.

Consistent with the guiding principles in the Plan, on June 30, 2023, DHS announced that it had authorized CBP to move forward with the planning and execution of up to approximately 20 miles of border barrier system in the USBP Rio Grande Valley (RGV) Sector, as mandated by the DHS FY 2019 border barrier appropriation.⁵

As required by DHS's FY 2019 appropriation, CBP will be using 18-foot steel bollard fence panels placed in removable concrete jersey barriers, as the steel bollard design remains the most operationally effective design and has been tested and evaluated over the last several years. This project will also include the installation of system attributes, such as detection technology, lighting, and access roads. The proposed project, which does not involve the use of U.S. Fish and Wildlife refuge tracts, is located within Starr County, Texas, which is USBP's highest priority location within the RGV Sector.

In addition, DHS authorized CBP to move forward with the Yuma Andrade and El Centro Calexico Fence Replacement Projects. Both projects will replace dilapidated segments of legacy fencing that presently create potential safety and security concerns for USBP agents, migrants, and the surrounding community. The decision to proceed with these replacement projects, similar to previously approved projects, prioritizes the completion of activities and projects needed to address life, safety, and operational risks - including the safety and security of individuals, Border Patrol agents, migrants, and nearby communities.

Environmental and Community Impact

As set forth in the Plan, CBP has prioritized efforts to address safety hazards and remediate and mitigate environmental damage from incomplete construction at border barrier project sites. Activities include, but are not limited to, remediating temporary use areas such as staging

⁵ <https://www.cbp.gov/newsroom/local-media-release/cbp-moves-forward-rgv-barrier-and-yuma-andrade-and-el-centro-calexico>

areas, haul roads, and project areas impacted by construction, completing erosion control measures, repairing drainage gates to prevent flooding, and addressing other environmental requirements, such as installing small wildlife passages. The remediation work is intended to ensure that the previously installed border infrastructure functions as it was intended, improve operational conditions for USBP, make the project areas safe, and prevent further environmental degradation in areas impacted by prior border barrier construction.

CBP and the Department of the Interior (DOI) have developed a plan and are implementing mitigation projects to address impacts to cultural and natural resources associated with past barrier construction projects. Mitigation projects may include actions to address impacts to Tribal cultural resources, restoring or replacing habitat, offsetting damaged cultural sites and studies to assess impacts of barrier construction on threatened or engaged species. These activities are intended to identify and address long-term impacts from the barrier on cultural and natural resources.

As part of environmental planning efforts for new construction projects, CBP consults with federal, state, local, and other relevant stakeholders to identify potential resources that may be present within a planned project area to avoid these resources or develop measures to offset or mitigate potential impacts, to the greatest extent possible, while still meeting operational requirements. CBP is committed to limiting the impacts of border barrier construction on sensitive lands and wildlife along the Southwest Border including in national wildlife refuges, national forests, national monuments, wilderness areas, and on imperiled species.

CBP works diligently to integrate responsible environmental practices, including incorporating sustainable practices, into all aspects of its decision-making and operations.⁶ Working closely with the U.S. Fish and Wildlife Service, the Bureau of Land Management, the U.S. Forest Service, and the National Park Service, CBP implements best management practices that are designed to minimize or avoid impacts to sensitive biological, cultural, and natural resources during construction, to the greatest extent possible, while still meeting operational requirements. Where avoidance is not possible, CBP consistently demonstrates our strong commitment to environmental stewardship by evaluating and identifying possible mitigation measures for implementation to offset impacts.

Throughout the planning, design, and construction process, CBP completes project, budget, real estate, and environmental planning to maximize transparency and accountability and to ensure the most effective and efficient solutions are deployed to meet requirements. CBP is committed to ensuring that all stakeholder communities, including Federal partners, state, local, and tribal officials, and impacted communities, are kept informed and engaged throughout this process.

⁶ CBP's environmental planning includes the preparation of an Environmental Assessment or Environmental Impact Statement, in compliance with the National Environmental Policy Act (NEPA). For some projects, the DHS Secretary may determine it is necessary to exercise authority in Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to waive certain environmental laws, including NEPA, to expedite construction of border infrastructure. In this case, CBP seeks to accomplish responsible environmental planning within a managed timeframe to meet operational needs and prepares and implements an Environmental Stewardship Plan.

CBP continues to review border barrier projects presenting life, safety, environmental, or other remediation needs and will continue to conduct environmental planning activities for planned projects. Any future construction will be conducted in accordance with enacted appropriations and in line with the intent to utilize a range of tools including smart border technology to enhance security along the border as warranted by requirements in specific areas.

Conclusion

Infrastructure is just one piece of the border security enterprise. While infrastructure acts as a tool that allows our agents time to respond to activity, it is not the only operational resource. Investments in personnel, technology, and partnerships all work together to help CBP gain situational awareness, mitigate the flow of irregular migration, and protect our borders between the ports of entry along the Southwest Border.

All of these improvements and investments have helped CBP provide a greater response to border incursions, while supporting the daily enforcement of immigration laws and counteracting other illegal activity along the Southwest Border.

Thank you for the opportunity to testify today. I look forward to your questions.