

~~DRAFT // PRE-DECISIONAL // DELIBERATIVE~~

ACTION MEMO

AUG 21 2019

Prepared by: [Redacted] OUSD(P) [Redacted] OASD(HD&GS) [Redacted]
Phone Number: [Redacted]

FOR: SECRETARY OF DEFENSE

FROM: Kenneth P. Rapuano, Assistant Secretary of Defense, Homeland Defense & Global Security

SUBJECT: Military Construction Pursuant to 10 U.S.C. § 2808

PURPOSE: To obtain (1) your determination that constructing eleven border barrier projects is necessary to support the use of the armed forces in connection with the national emergency at the southern border, (2) your approval to undertake the eleven border projects, and (3) your authorization to notify Congress of the decision to undertake the eleven border projects.

COORDINATION: This action was coordinated with the Secretaries of the Military Departments, Acting USD(C)/CFO, USD(A&S), OGC, and the Joint Staff.

BLUF: This memorandum recommends that you determine that construction of eleven border barrier military construction (MILCON) projects costing approximately \$3.6B (TAB E) is necessary to support the use of the armed forces in connection with the national emergency at the southern border and that you approve undertaking those projects.

DISCUSSION: On April 4, 2018, the President directed the Secretary of Defense to support the Department of Homeland Security (DHS) in securing the southern border, and to take other necessary actions to stop the flow of deadly drugs and other contraband, gang members and other criminals, and illegal aliens into this country. Since April 4, 2018, DHS has submitted 29 separate requests for DoD support regarding the crisis at the southern border, and DoD currently has approximately 5,540 personnel supporting DHS's border security mission.

Statutory Authority

- On February 15, 2019, the President declared a national emergency in accordance with the National Emergencies Act and determined that the crisis at the southern border is a national emergency that requires the use of the armed forces (TAB F).
- This declaration made available 10 U.S.C. § 2808, which authorizes the Secretary of Defense, without regard to any other provision of law, to undertake MILCON projects not otherwise authorized by law that are necessary to support the use of the armed forces in connection with the national emergency.
- To satisfy the requirements of 10 U.S.C § 2808, the border barriers must be MILCON projects, and you must determine that these MILCON projects are necessary to support the use of the armed forces in connection with the national emergency (TAB G).
 - To be MILCON, the construction or acquisition of land must be with respect to a military installation in accordance with 10 U.S.C. § 2801(a). Within the United States, a military installation means "a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department."



SD CA		DSD SA	[Redacted]
SD SMA		DSD SMA	
SD MA		DSD MA	
CoS		DSD CA	
SD Action Grp			
ES	[Redacted]	ESB Rvw	[Redacted]
ESR	[Redacted]	ESD	[Redacted]



AUG 21 2019

OFFICE OF THE
SECRETARY OF DEFENSE

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- Based on the facts and analysis presented below and in TABs G, H, I, and J, you may find that these 11 projects are MILCON projects necessary to support the use of the armed forces in connection with the national emergency.

Border Barrier Projects as MILCON Projects

- With the exception of Yuma Project 2 (\$40M) and Yuma Project 10/27 (\$527M), which fall on approximately 33 miles of land on the Barry M. Goldwater Range (BMGR) in Arizona under the administrative jurisdiction of the Secretary of the Navy, the remaining proposed border barrier projects are on non-DoD Federal land or non-Federal land.
- In order for the remaining border barrier projects to constitute MILCON projects:
 - the Federal landholding agency (primarily the Department of the Interior (DOI) or elements of DOI) must transfer administrative jurisdiction over the Federal land to the Secretary of a Military Department;
 - the Secretary of a Military Department must acquire the non-Federal land through purchase or condemnation; and
 - the Secretary of a Military Department must accept custody and accountability over the land (both Federal and non-Federal) and report the land in the Military Department's inventory, either as its own installation or as part of an existing, nearby military installation.
- There are two types of Federal land – public domain lands and normal Federal property.
- *Public Domain Lands:* DOI may transfer administrative jurisdiction of public domain lands to DoD through either new withdrawal or emergency withdrawal procedures. New withdrawal procedures may take between 12 and 24 months (due to DOI's legal requirement to comply with certain environmental and other laws), while emergency withdrawals could be accomplished within 1 month.
 - The Department of the Army may only submit a withdrawal application to DOI after SecDef makes a decision to undertake specific MILCON projects pursuant to Section 2808. DoD, through OUSD(P) and the U.S. Army Corps of Engineers (USACE), is working with DOI to describe the land needed for each proposed project and to develop four applications for emergency withdrawal to be submitted to DOI shortly after your decision to undertake specific Section 2808 projects.
- *Normal Federal Property:* For those non-DoD lands that are ordinary Federal property, the Federal landholding agency may transfer administrative jurisdiction to the Secretary of a Military Department within a few weeks of identifying the property. This transfer would occur through the General Services Administration, pursuant to the Federal Property Act.
- *Non-Federal Land:* The Department of the Army may acquire the lands required for projects on non-Federal land through voluntary purchase or condemnation, which USACE indicates would take 12 to 24 months, depending on the number of property owners and the owners' willingness to sell.

Necessity of Border Barriers

- A more detailed explanation as to why these border barrier projects are necessary to support the use of the armed forces can be found at TAB H.
- At the request of then-Acting Secretary Shanahan, then-Secretary of Homeland Security Nielsen provided a prioritized list (TAB I) of border barrier construction projects (in 15 segments) that DHS

assessed would improve the effectiveness and efficiency of armed forces personnel supporting DHS in securing the southern border.

- DHS's letter explained that it had identified 12 capabilities required to achieve operational control of the border, the most important of which is impeding and denying unlawful entry, primarily through the use of artificial barriers.
- Based on this DHS list, then-Acting Secretary Shanahan instructed the CJCS to assess whether and how construction of these projects, as well as projects identified by DHS for construction under 10 U.S.C. § 284 that have not yet been approved for funding by DoD, could support the use of the armed forces. He also directed the USD(C) to identify \$3.6 billion that could be used to source Section 2808 projects. The CJCS concluded that all of the DHS identified construction projects are necessary to support the use of the armed forces in connection with the national emergency at the southern border (TAB J).
- In developing this assessment, the CJCS consulted with DHS, including Customs and Border Protection (CBP) and the U.S. Border Patrol (USBP); U.S. Northern Command; and USACE and determined that border barriers:
 - Improve CBP's detection, identification, classification, and response capabilities;
 - Reduce vulnerabilities in key border areas and the time it takes for Border Patrol agents to apprehend illegal migrants; and
 - Serve as a force multiplier to allow military personnel to cover other areas in support of the detection and monitor mission.
- The CJCS's assessment also determined that the construction of border barriers would:
 - Make migration flows more predictable by channeling illegal migrants towards points of legal entry, improving CBP force allocation, and reducing the need for low-density/high-demand DoD aviation assets;
 - Allow DoD to re-prioritize its force laydown in support of DHS/CBP; and
 - Enable more effective and efficient use of DoD personnel, which could ultimately reduce the demand for DoD support at the southern border over time.

Determinations

- Based on the information and analysis above and at TABs H, I, and J, you may determine that the border barrier construction projects at TAB E, and associated acquisition of land and transfer of administrative jurisdiction, are MILCON projects necessary to support the use of the armed forces in connection with the national emergency declared by the President on February 15, 2019. The memorandum at TAB A would memorialize this decision and direct implementing actions.
- Section 2808 authorizes the SecDef to undertake military construction "without regard to any other provision of law" that would prevent an expeditious response to the national emergency. Such provisions of law include, but are not limited to, environmental, historic preservation, and contracting laws.
- If you determine that the above construction projects and associated acquisition of land and transfer of administrative jurisdiction are MILCON projects necessary to support the use of the armed forces, you will need to sign notification letters to the Acting Secretary of Homeland Security (TAB C) and the Secretary of the Interior (TAB D).

- The letter to the Acting Secretary of Homeland Security notifies DHS of your decision to undertake 11 border barrier military construction projects necessary to support the use of the armed forces in response to the February 15, 2019, national emergency.
- The letter to the Secretary of the Interior notifies DOI of your decision to undertake certain border barrier military construction projects necessary to support the use of the armed forces on lands currently held by DOI or its agencies, and requests DOI's assistance to transfer administrative jurisdiction over those lands expeditiously to the Secretary of the Army.
 - o The Department of the Army, through USACE, will work with DOI to describe the necessary lands, determine the appropriate transfer mechanism (emergency withdrawal or Federal Property Act transfer), and develop and submit the application and requisite information.
 - o After the Secretary of the Interior approves the emergency withdrawal by signing a public land order transferring administrative jurisdiction to the Department of the Army (or transfers jurisdiction pursuant to the Federal Property Act), the Department of the Army will accept custody of and accountability for the land and add the land to its real property inventory as either a new military installation or as part of an existing military installation, consistent with Section 2801, as outlined in TAB G.
- **Congress:** You are required to notify the congressional defense committees of the specific MILCON projects you decide to undertake under Section 2808 and their associated cost. The letters at TAB B notify the committees of your decision.
 - There already are congressional efforts to restrict use of Section 2808 to build border barriers, and a decision to undertake border barrier projects under Section 2808 will likely renew and invigorate those efforts (TAB K).
 - Although not required by Section 2808, DoD committed to informing the congressional defense committees of the specific MILCON projects that would be deferred in order to make funds available for border barrier MILCON projects under Section 2808. There will be separate guidance to the Comptroller regarding engagement with Congress on deferred MILCON projects.
- **Funding:** The DUSD(C) provided you a package that identified existing MILCON projects that the Department could defer to fund up to \$3.6B in Section 2808 MILCON projects should you decide to undertake those projects. In compiling this package, the DUSD(C) relied on DoD Components to prioritize projects with award dates in fiscal year 2020 or later, the deferral of which would have a minimal effect on Component readiness. The DUSD(C) did not consider any family housing, barracks, or dormitory projects for deferral.
 - As will be detailed in a separate package, the Comptroller will prioritize deferred MILCON projects to ensure that, initially, only funds associated with projects outside of the United States will be provided to the Department of the Army for construction of Section 2808 projects.
- **Litigation:** The Secretary of Defense (in his official capacity) is a defendant in multiple lawsuits challenging, among other matters, the President's declaration of national emergency and the use of Section 2808. The plaintiffs seek an injunction to halt all activity under Section 2808.
 - The Government has notified all courts in which a challenge to Section 2808 is pending that the Department has not made any decision to undertake any projects under Section 2808. The Government agreed to notify those courts as soon as a decision is made. The Office of General Counsel, through the Department of Justice (DOJ), will provide such notification. DOJ will

share the specific MILCON projects to be undertaken along with any other publicly available information about the projects.

- DOJ has requested that DoD share the funding sources with the courts and the parties as soon as possible in order to avoid additional lawsuits and narrow the scope of the litigation.

RECOMMENDATIONS:

- 1) Determine that 11 border barrier projects (TAB E) and associated acquisition of land and transfer of jurisdiction are MILCON projects necessary to support use of the armed forces in connection with the February 15, 2019, national emergency requiring use of the armed forces, and decide to undertake those projects as authorized by 10 U.S.C. § 2808.

Approve: *JH* 9/3/19 Disapprove: _____ Other: _____

- 2) Notify Congress of your decision to undertake military construction projects under 10 U.S.C. § 2808 by signing the congressional notification letters at TAB B.
- 3) Sign the memorandum at TAB A:
 - a. Documenting and implementing your decision to undertake 11 military construction projects necessary to support the use of the armed forces in connection with the national emergency.
 - b. Authorizing and directing the Acting Secretary of the Army to:
 - i. Expeditiously undertake the 11 border barrier military construction projects, and as authorized by Section 2808, do so without regard to any other provision of law that could impede such expeditious construction in response to the national emergency;
 - ii. Immediately proceed to construct the projects on BMGR, where the land is already under the jurisdiction of the Secretary of the Navy (constructing the remaining projects as the necessary real property is under the administrative jurisdiction of the Department of the Army and reflected in its records as a military installation);
 - iii. Immediately apply for and accept administrative jurisdiction of real property from other Federal departments and agencies, including DOI, and to acquire non-Federal real property necessary to undertake the specified military construction projects; and
 - iv. Add such land to the Department of the Army's real property inventory, either as a new installation or as part of an existing military installation, consistent with DoD Instruction (DoDI) 4165.14, "Real Property Inventory (RPI) and Forecasting," and DoDI 4165.71, "Real Property Acquisition."
 - c. Directing the Secretary of the Navy, as the land holding agency for BMGR, to ensure USACE has the access and information necessary to undertake the military construction projects at BMGR; and
 - d. Directing the Acting USD(C)/CFO to ensure that up to \$3.6B in unobligated MILCON funds are available to undertake such military construction projects.
- 4) Sign the letter at TAB C notifying the Acting Secretary of Homeland Security of your decision.

- 5) Sign the letter at TAB D requesting assistance from the Secretary of the Interior for the transfer of administrative jurisdiction of non-DoD Federal land.

Attachments:

- TAB A – Memorandum – Guidance for Undertaking MILCON Projects Pursuant to Section 2808 of Title 10, U.S. Code
- TAB B – Congressional Notification Letters
- TAB C – Letter Notifying Acting Secretary of Homeland Security
- TAB D – Letter Requesting Assistance from DOI for Transfer of Administrative Jurisdiction
- TAB E – Border Barrier Project List
- TAB F – President’s Declaration of National Emergency
- TAB G – Paper on Section 2808 of Title 10, U.S. Code.
- TAB H – Summary of Analysis and Justification of the Necessity of Border Barriers to Support Use of the Armed Forces
- TAB I – Letter from the Secretary of Homeland Security on Recommended 2808 Border Barrier Projects
- TAB J – CJCS Assessment of 2808 Border Barrier Projects
- TAB K – Statement of Administration Policy on Border Barrier Related Matters
- TAB L – Coordination

TAB

A



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

9/3/19

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
ACTING UNDER SECRETARY OF DEFENSE
(COMPTROLLER)/CHIEF FINANCIAL OFFICER

SUBJECT: Guidance for Undertaking Military Construction Projects Pursuant to Section 2808 of Title 10, U.S. Code

On February 15, 2019, in accordance with the National Emergencies Act, the President declared that a national emergency exists at the southern border requiring the use of the armed forces. This declaration made available, among other statutes, 10 U.S.C. § 2808, which authorizes the Secretary of Defense, without regard to any other provision of law, to undertake military construction projects not otherwise authorized by law that are necessary to support the use of the armed forces in connection with the national emergency.

Based on analysis and advice from the Chairman of the Joint Chiefs of Staff and input from the Commander, U.S. Army Corps of Engineers, the Department of Homeland Security (DHS), and the Department of the Interior and pursuant to the authority granted to me in Section 2808, I have determined that 11 military construction projects along the international border with Mexico, with an estimated total cost of \$3.6 billion, are necessary to support the use of the armed forces in connection with the national emergency. These projects will deter illegal entry, increase the vanishing time of those illegally crossing the border, and channel migrants to ports of entry. They will reduce the demand for DoD personnel and assets at the locations where the barriers are constructed and allow the redeployment of DoD personnel and assets to other high-traffic areas on the border without barriers. In short, these barriers will allow DoD to provide support to DHS more efficiently and effectively. In this respect, the contemplated construction projects are force multipliers.

I therefore authorize and direct the Acting Secretary of the Army to expeditiously undertake the eleven border barrier military construction projects specified in the attachment, and, as authorized by section 2808, to do so without regard to any other provision of law that could impede such expeditious construction in response to the national emergency. Such laws include, but are not limited to, the National Environmental Policy Act, the Endangered Species Act, the National Historic Preservation Act, the Clean Water Act, and provisions in Chapter 137 ("Procurement Generally") of title 10, U. S. Code. The Acting Secretary of the Army shall immediately apply for and accept administrative jurisdiction of real property from other Federal departments and agencies, including DOI, and acquire the non-Federal real property necessary to undertake the specified military construction projects. Once the Department of the Army obtains administrative jurisdiction of the requisite land, the Acting Secretary of the Army shall add such land to the Department of the Army's real property inventory, either as a new installation or as part of an existing military installation, consistent with DoD Instruction (DoDI) 4165.14, "Real Property Inventory (RPI) and Forecasting," and DoDI 4165.71, "Real Property Management."



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The Acting Secretary of the Army is directed to immediately proceed to construct 33 miles of border barrier on the Barry M. Goldwater Range (BMGR), identified as Yuma 10/27 and Yuma 2, to the extent the land is already under the jurisdiction of the Secretary of the Navy. As the land holding agency for BMGR, the Secretary of the Navy shall ensure USACE has the access and information necessary to undertake these military construction projects on BMGR. The Acting Secretary of the Army shall proceed with construction of the remaining projects as soon as the requisite land is under the administrative jurisdiction of the Department of the Army and reflected in its records as a military installation.

I further authorize and direct the Acting Under Secretary of Defense (Comptroller)/Chief Financial Officer to ensure that up to \$3.6 billion in unobligated military construction funds are available for the purpose of undertaking the eleven specified military construction projects. As will be detailed in separate guidance, the Comptroller will prioritize deferred military construction projects to ensure that, initially, only funds associated with projects outside of the United States will be provided to the Department of the Army for construction of section 2808 projects.

The Secretaries of the other Military Departments will assist the Acting Secretary of the Army with any staffing shortfalls related to undertaking these tasks.



Attachment:
As stated

cc:
Chairman, Joint Chiefs of Staff
Under Secretary of Defense (Policy)
Under Secretary of Defense (Acquisition & Sustainment)
General Counsel of the Department Of Defense
Assistant Secretary of Defense for Legislative Affairs
Assistant to the Secretary of Defense for Public Affairs
Commander, U.S. Army Corps of Engineers

List of Proposed Border Barrier Projects

Yuma Project 2 (\$40M): Replacement of one segment of primary pedestrian fencing on the Barry M. Goldwater Range starting 2.5 miles east of Border Monument 198 and extending east to Border Monument 197, for a total of approximately 1.5 - 2 miles.

Yuma Project 10/27 (\$527M): Construction of approximately 31 miles of a new secondary pedestrian fence system on the Barry M. Goldwater Range.

Yuma Project 3 (\$630M): Replacement of 31 miles of vehicle barriers with new pedestrian fencing, beginning approximately 0.4 miles east of the Barry M. Goldwater Range and continuing for approximately 31 miles east through the Cabeza Prieta National Wildlife Refuge in Yuma County.

San Diego Project 4 (\$67M): Construction of 1.5 miles of a new primary pedestrian fence system starting 3.6 miles east of the Otay Mesa Port of Entry (POE), extending east, and construction of 2 miles of a new secondary pedestrian fence system starting 3.6 miles east of the Otay Mesa POE, extending east.

Yuma Project 6 (\$65M): Construction of approximately 1 mile of a new primary pedestrian fence system starting at Andrade POE and extending a half mile west of monument marker 206, then resuming east of the Colorado River and extending south one mile; and construction of 2 miles of a new secondary pedestrian fence system starting a half mile east of monument marker 208 and extending east to the Colorado River, and then resuming on the east side of the Colorado river and extending south for approximately one mile.

El Paso Project 2 (\$476M): Replacement of 23.51 miles of vehicle barriers with new pedestrian fencing in noncontiguous segments within Hidalgo and Luna Counties, New Mexico.

- The first segment begins approximately 5.1 miles east of the New Mexico/Arizona Border, continuing east for 4.55 miles.
- The second segment begins approximately 3 miles west of the Antelope Wells POE to 3 miles east of the POE for 6.12 miles.
- The third segment begins approximately 20 miles west of the Columbus POE, extending west for 12.84 miles.

El Paso Project 8 (\$164M): Construction of approximately 6 miles of a new primary pedestrian fence system in place of existing vehicle barriers starting 1.5 miles west of monument marker 64 and extending 2 miles east of monument marker 63; and construction of approximately 6 miles of a new secondary pedestrian fence system starting 1.5 miles west of monument marker 64 and extending 2 miles east of monument marker 63.

San Diego Project 11 (\$57M): Construction of approximately 3 miles of a new secondary pedestrian fence system starting 2 miles west of the Tecate POE and extending to 1.5 miles east of the Tecate POE.

El Centro Project 5 (\$20M): Construction of approximately 1 mile of a new secondary pedestrian fence system starting 0.5 mile west of the Calexico West POE, extending 1 mile east of the Calexico West POE.

Laredo Project 7 (\$1,268M): Construction of approximately 52 miles of a new primary pedestrian fence system starting from the Laredo-Columbia Solidarity POE North West for approximately 52 miles along the Rio-Grande River.

El Centro Project 9 (\$286M): Construction of approximately 12 miles of a new secondary pedestrian fence system, starting 1.5 miles west of monument marker 223 and ending at monument marker 221, and resuming 1 mile east of the Calexico West POE and extending east for 3 miles.

TAB

B



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

9/3/19

The Honorable James Inhofe
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

On February 15, 2019, the President issued a proclamation declaring that a national emergency exists along the southern border of the United States that requires the use of the armed forces. In order to provide additional authority to the Department of Defense as part of the Federal Government's response to this national emergency, the President further made available, in accordance with Section 301 of the National Emergencies Act (50 U.S.C. 1631), the authority provided in Section 2808 of Title 10, U.S. Code.

Based on analysis and advice from the Chairman of the Joint Chiefs of Staff and input from the Commander, U.S. Army Corps of Engineers, the Department of Homeland Security (DHS), and the Department of the Interior and pursuant to the authority granted to me in Section 2808, I have determined that 11 military construction projects along the international border with Mexico, with an estimated total cost of \$3.6 billion, are necessary to support the use of the armed forces in connection with the national emergency. These projects will deter illegal entry, increase the vanishing time of those illegally crossing the border, and channel migrants to ports of entry. They will reduce the demand for DoD personnel and assets at the locations where the barriers are constructed and allow the redeployment of DoD personnel and assets to other high-traffic areas on the border without barriers. In short, these barriers will allow DoD to provide support to DHS more efficiently and effectively. In this respect, the contemplated construction projects are force multipliers.

Accordingly, I have authorized and directed the Acting Secretary of the Army to undertake these 11 projects expeditiously, and, as authorized by Section 2808, to do so without regard to any other provision of law that may impede the expeditious construction of such projects in response to the national emergency. A description of and the estimated cost for each project, including the cost of any associated real estate actions, can be found in the enclosure.

I have further authorized and directed the Acting Under Secretary of Defense (Comptroller)/Chief Financial Officer to ensure that up to \$3.6 billion in unobligated military construction funds are available for the purpose of undertaking the specified military construction projects. The funds being made available are associated only with deferred military construction projects that are not scheduled for award until fiscal year 2020 or later and do not include any family housing, barracks, or dormitory projects. Furthermore, I have directed the Acting Under Secretary of Defense (Comptroller) to prioritize deferred military construction projects such that, initially, only funds associated with deferred military construction projects outside of the United States will be made available to the Department of the Army. This will

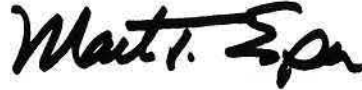


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provide for approximately \$1.8 billion of the required funds. The remaining \$1.8 billion associated with deferred military construction projects located in the United States (including U.S. territories) will be made available to the Secretary of the Army when it is needed for obligation. My intent in prioritizing funds in this manner is to provide time to work with you to determine opportunities to restore funds for these important military construction projects as well as to work with our allies and partners in improving cost burden sharing for the overseas construction projects.

I am sending an identical letter to the other Congressional defense committees.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark T. Esper". The signature is written in a cursive, slightly slanted style.

Enclosure:
As stated

cc:
The Honorable Jack Reed
Ranking Member

List of Military Construction Projects

Yuma Project 2 (\$40M): Replacement of one segment of primary pedestrian fencing on the Barry M. Goldwater Range starting 2.5 miles east of Border Monument 198 and extending east to Border Monument 297, for a total of approximately 1.5-2 miles.

Yuma Project 10/27 (\$527M): Construction of approximately 31 miles of a new secondary pedestrian fence system on the Barry M. Goldwater Range.

Yuma Project 3 (\$630M): Replacement of 31 miles of vehicle barriers with new pedestrian fencing, beginning approximately 0.4 miles east of the Barry M. Goldwater Range and continuing for approximately 31 miles east through the Cabeza Prieta National Wildlife Refuge in Yuma County.

San Diego Project 4 (\$67M): Construction of 1.5 miles of a new primary pedestrian fence system starting 3.6 miles east of the Otay Mesa Port of Entry (POE), extending east, and construction of 2 miles of a new secondary pedestrian fence system starting 3.6 miles east of the Otay Mesa POE, extending east.

Yuma Project 6 (\$65M): Construction of approximately 1 mile of a new primary pedestrian fence system starting at Andrade POE and extending a half mile west of monument marker 206, then resuming east of the Colorado River and extending south one mile; and construction of 2 miles of a new secondary pedestrian fence system starting a half mile east of monument marker 208 and extending east to the Colorado River, and then resuming on the east side of the Colorado river and extending south for approximately one mile.

El Paso Project 2 (\$476M): Replacement of 23.51 miles of vehicle barriers with new pedestrian fencing in noncontiguous segments within Hidalgo and Luna Counties, New Mexico.

- The first segment begins approximately 5.1 miles east of the New Mexico/Arizona Border, continuing east for 4.55 miles.
- The second segment begins approximately 3 miles west of the Antelope Wells POE to 3 miles east of the POE for 6.12 miles.
- The third segment begins approximately 20 miles west of the Columbus POE, extending west for 12.84 miles.

El Paso Project 8 (\$164M): Construction of approximately 6 miles of a new primary pedestrian fence system in place of existing vehicle barriers starting 1.5 miles west of monument marker 64 and extending 2 miles east of monument marker 63; and construction of approximately 6 miles of a new secondary pedestrian fence system starting 1.5 miles west of monument marker 64 and extending 2 miles east of monument marker 63.

San Diego Project 11 (\$57M): Construction of approximately 3 miles of a new secondary pedestrian fence system starting 2 miles west of the Tecate POE and extending to 1.5 miles east of the Tecate POE.

El Centro Project 5 (\$20M): Construction of approximately 1 mile of a new secondary pedestrian fence system starting 0.5 mile west of the Calexico West POE, extending 1 mile east of the Calexico West POE.

Laredo Project 7 (\$1,268M): Construction of approximately 52 miles of a new primary pedestrian fence system starting from the Laredo-Columbia Solidarity POE North West for approximately 52 miles along the Rio-Grande River.

El Centro Project 9 (\$286M): Construction of approximately 12 miles of a new secondary pedestrian fence system, starting 1.5 miles west of monument marker 223 and ending at monument marker 221, and resuming 1 mile east of the Calexico West POE and extending east for 3 miles.

Enclosure



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

9/3/19

The Honorable Adam Smith
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

On February 15, 2019, the President issued a proclamation declaring that a national emergency exists along the southern border of the United States that requires the use of the armed forces. In order to provide additional authority to the Department of Defense as part of the Federal Government's response to this national emergency, the President further made available, in accordance with Section 301 of the National Emergencies Act (50 U.S.C. 1631), the authority provided in Section 2808 of Title 10, U.S. Code.

Based on analysis and advice from the Chairman of the Joint Chiefs of Staff and input from the Commander, U.S. Army Corps of Engineers, the Department of Homeland Security (DHS), and the Department of the Interior and pursuant to the authority granted to me in Section 2808, I have determined that 11 military construction projects along the international border with Mexico, with an estimated total cost of \$3.6 billion, are necessary to support the use of the armed forces in connection with the national emergency. These projects will deter illegal entry, increase the vanishing time of those illegally crossing the border, and channel migrants to ports of entry. They will reduce the demand for DoD personnel and assets at the locations where the barriers are constructed and allow the redeployment of DoD personnel and assets to other high-traffic areas on the border without barriers. In short, these barriers will allow DoD to provide support to DHS more efficiently and effectively. In this respect, the contemplated construction projects are force multipliers.

Accordingly, I have authorized and directed the Acting Secretary of the Army to undertake these 11 projects expeditiously, and, as authorized by Section 2808, to do so without regard to any other provision of law that may impede the expeditious construction of such projects in response to the national emergency. A description of and the estimated cost for each project, including the cost of any associated real estate actions, can be found in the enclosure.

I have further authorized and directed the Acting Under Secretary of Defense (Comptroller)/Chief Financial Officer to ensure that up to \$3.6 billion in unobligated military construction funds are available for the purpose of undertaking the specified military construction projects. The funds being made available are associated only with deferred military construction projects that are not scheduled for award until fiscal year 2020 or later and do not include any family housing, barracks, or dormitory projects. Furthermore, I have directed the Acting Under Secretary of Defense (Comptroller) to prioritize deferred military construction projects such that, initially, only funds associated with deferred military construction projects outside of the United States will be made available to the Department of the Army. This will

provide for approximately \$1.8 billion of the required funds. The remaining \$1.8 billion associated with deferred military construction projects located in the United States (including U.S. territories) will be made available to the Secretary of the Army when it is needed for obligation. My intent in prioritizing funds in this manner is to provide time to work with you to determine opportunities to restore funds for these important military construction projects as well as to work with our allies and partners in improving cost burden sharing for the overseas construction projects.

I am sending an identical letter to the other Congressional defense committees.

Sincerely,

A handwritten signature in black ink that reads "Matt. Spa". The signature is written in a cursive, slightly slanted style.

Enclosure:

As stated

cc:

The Honorable William M. "Mac" Thornberry
Ranking Member

List of Military Construction Projects

Yuma Project 2 (\$40M): Replacement of one segment of primary pedestrian fencing on the Barry M. Goldwater Range starting 2.5 miles east of Border Monument 198 and extending east to Border Monument 297, for a total of approximately 1.5-2 miles.

Yuma Project 10/27 (\$527M): Construction of approximately 31 miles of a new secondary pedestrian fence system on the Barry M. Goldwater Range.

Yuma Project 3 (\$630M): Replacement of 31 miles of vehicle barriers with new pedestrian fencing, beginning approximately 0.4 miles east of the Barry M. Goldwater Range and continuing for approximately 31 miles east through the Cabeza Prieta National Wildlife Refuge in Yuma County.

San Diego Project 4 (\$67M): Construction of 1.5 miles of a new primary pedestrian fence system starting 3.6 miles east of the Otay Mesa Port of Entry (POE), extending east, and construction of 2 miles of a new secondary pedestrian fence system starting 3.6 miles east of the Otay Mesa POE, extending east.

Yuma Project 6 (\$65M): Construction of approximately 1 mile of a new primary pedestrian fence system starting at Andrade POE and extending a half mile west of monument marker 206, then resuming east of the Colorado River and extending south one mile; and construction of 2 miles of a new secondary pedestrian fence system starting a half mile east of monument marker 208 and extending east to the Colorado River, and then resuming on the east side of the Colorado river and extending south for approximately one mile.

El Paso Project 2 (\$476M): Replacement of 23.51 miles of vehicle barriers with new pedestrian fencing in noncontiguous segments within Hidalgo and Luna Counties, New Mexico.

- The first segment begins approximately 5.1 miles east of the New Mexico/Arizona Border, continuing east for 4.55 miles.
- The second segment begins approximately 3 miles west of the Antelope Wells POE to 3 miles east of the POE for 6.12 miles.
- The third segment begins approximately 20 miles west of the Columbus POE, extending west for 12.84 miles.

El Paso Project 8 (\$164M): Construction of approximately 6 miles of a new primary pedestrian fence system in place of existing vehicle barriers starting 1.5 miles west of monument marker 64 and extending 2 miles east of monument marker 63; and construction of approximately 6 miles of a new secondary pedestrian fence system starting 1.5 miles west of monument marker 64 and extending 2 miles east of monument marker 63.

San Diego Project 11 (\$57M): Construction of approximately 3 miles of a new secondary pedestrian fence system starting 2 miles west of the Tecate POE and extending to 1.5 miles east of the Tecate POE.

El Centro Project 5 (\$20M): Construction of approximately 1 mile of a new secondary pedestrian fence system starting 0.5 mile west of the Calexico West POE, extending 1 mile east of the Calexico West POE.

Laredo Project 7 (\$1,268M): Construction of approximately 52 miles of a new primary pedestrian fence system starting from the Laredo-Columbia Solidarity POE North West for approximately 52 miles along the Rio-Grande River.

El Centro Project 9 (\$286M): Construction of approximately 12 miles of a new secondary pedestrian fence system, starting 1.5 miles west of monument marker 223 and ending at monument marker 221, and resuming 1 mile east of the Calexico West POE and extending east for 3 miles.

Enclosure



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

9/3/19

The Honorable Richard C. Shelby
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

On February 15, 2019, the President issued a proclamation declaring that a national emergency exists along the southern border of the United States that requires the use of the armed forces. In order to provide additional authority to the Department of Defense as part of the Federal Government's response to this national emergency, the President further made available, in accordance with Section 301 of the National Emergencies Act (50 U.S.C. 1631), the authority provided in Section 2808 of Title 10, U.S. Code.

Based on analysis and advice from the Chairman of the Joint Chiefs of Staff and input from the Commander, U.S. Army Corps of Engineers, the Department of Homeland Security (DHS), and the Department of the Interior and pursuant to the authority granted to me in Section 2808, I have determined that 11 military construction projects along the international border with Mexico, with an estimated total cost of \$3.6 billion, are necessary to support the use of the armed forces in connection with the national emergency. These projects will deter illegal entry, increase the vanishing time of those illegally crossing the border, and channel migrants to ports of entry. They will reduce the demand for DoD personnel and assets at the locations where the barriers are constructed and allow the redeployment of DoD personnel and assets to other high-traffic areas on the border without barriers. In short, these barriers will allow DoD to provide support to DHS more efficiently and effectively. In this respect, the contemplated construction projects are force multipliers.

Accordingly, I have authorized and directed the Acting Secretary of the Army to undertake these 11 projects expeditiously, and, as authorized by Section 2808, to do so without regard to any other provision of law that may impede the expeditious construction of such projects in response to the national emergency. A description of and the estimated cost for each project, including the cost of any associated real estate actions, can be found in the enclosure.

I have further authorized and directed the Acting Under Secretary of Defense (Comptroller)/Chief Financial Officer to ensure that up to \$3.6 billion in unobligated military construction funds are available for the purpose of undertaking the specified military construction projects. The funds being made available are associated only with deferred military construction projects that are not scheduled for award until fiscal year 2020 or later and do not include any family housing, barracks, or dormitory projects. Furthermore, I have directed the Acting Under Secretary of Defense (Comptroller) to prioritize deferred military construction projects such that, initially, only funds associated with deferred military construction projects outside of the United States will be made available to the Department of the Army. This will

provide for approximately \$1.8 billion of the required funds. The remaining \$1.8 billion associated with deferred military construction projects located in the United States (including U.S. territories) will be made available to the Secretary of the Army when it is needed for obligation. My intent in prioritizing funds in this manner is to provide time to work with you to determine opportunities to restore funds for these important military construction projects as well as to work with our allies and partners in improving cost burden sharing for the overseas construction projects.

I am sending an identical letter to the other Congressional defense committees.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark E. Spitzer". The signature is written in a cursive, flowing style.

Enclosure:

As stated

cc:

The Honorable Patrick J. Leahy
Vice Chairman

List of Military Construction Projects

Yuma Project 2 (\$40M): Replacement of one segment of primary pedestrian fencing on the Barry M. Goldwater Range starting 2.5 miles east of Border Monument 198 and extending east to Border Monument 297, for a total of approximately 1.5-2 miles.

Yuma Project 10/27 (\$527M): Construction of approximately 31 miles of a new secondary pedestrian fence system on the Barry M. Goldwater Range.

Yuma Project 3 (\$630M): Replacement of 31 miles of vehicle barriers with new pedestrian fencing, beginning approximately 0.4 miles east of the Barry M. Goldwater Range and continuing for approximately 31 miles east through the Cabeza Prieta National Wildlife Refuge in Yuma County.

San Diego Project 4 (\$67M): Construction of 1.5 miles of a new primary pedestrian fence system starting 3.6 miles east of the Otay Mesa Port of Entry (POE), extending east, and construction of 2 miles of a new secondary pedestrian fence system starting 3.6 miles east of the Otay Mesa POE, extending east.

Yuma Project 6 (\$65M): Construction of approximately 1 mile of a new primary pedestrian fence system starting at Andrade POE and extending a half mile west of monument marker 206, then resuming east of the Colorado River and extending south one mile; and construction of 2 miles of a new secondary pedestrian fence system starting a half mile east of monument marker 208 and extending east to the Colorado River, and then resuming on the east side of the Colorado river and extending south for approximately one mile.

El Paso Project 2 (\$476M): Replacement of 23.51 miles of vehicle barriers with new pedestrian fencing in noncontiguous segments within Hidalgo and Luna Counties, New Mexico.

- The first segment begins approximately 5.1 miles east of the New Mexico/Arizona Border, continuing east for 4.55 miles.
- The second segment begins approximately 3 miles west of the Antelope Wells POE to 3 miles east of the POE for 6.12 miles.
- The third segment begins approximately 20 miles west of the Columbus POE, extending west for 12.84 miles.

El Paso Project 8 (\$164M): Construction of approximately 6 miles of a new primary pedestrian fence system in place of existing vehicle barriers starting 1.5 miles west of monument marker 64 and extending 2 miles east of monument marker 63; and construction of approximately 6 miles of a new secondary pedestrian fence system starting 1.5 miles west of monument marker 64 and extending 2 miles east of monument marker 63.

San Diego Project 11 (\$57M): Construction of approximately 3 miles of a new secondary pedestrian fence system starting 2 miles west of the Tecate POE and extending to 1.5 miles east of the Tecate POE.

El Centro Project 5 (\$20M): Construction of approximately 1 mile of a new secondary pedestrian fence system starting 0.5 mile west of the Calexico West POE, extending 1 mile east of the Calexico West POE.

Laredo Project 7 (\$1,268M): Construction of approximately 52 miles of a new primary pedestrian fence system starting from the Laredo-Columbia Solidarity POE North West for approximately 52 miles along the Rio-Grande River.

El Centro Project 9 (\$286M): Construction of approximately 12 miles of a new secondary pedestrian fence system, starting 1.5 miles west of monument marker 223 and ending at monument marker 221, and resuming 1 mile east of the Calexico West POE and extending east for 3 miles.



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

9/3/19

The Honorable Nita M. Lowey
Chairwoman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Madam Chairwoman:

On February 15, 2019, the President issued a proclamation declaring that a national emergency exists along the southern border of the United States that requires the use of the armed forces. In order to provide additional authority to the Department of Defense as part of the Federal Government's response to this national emergency, the President further made available, in accordance with Section 301 of the National Emergencies Act (50 U.S.C. 1631), the authority provided in Section 2808 of Title 10, U.S. Code.

Based on analysis and advice from the Chairman of the Joint Chiefs of Staff and input from the Commander, U.S. Army Corps of Engineers, the Department of Homeland Security (DHS), and the Department of the Interior and pursuant to the authority granted to me in Section 2808, I have determined that 11 military construction projects along the international border with Mexico, with an estimated total cost of \$3.6 billion, are necessary to support the use of the armed forces in connection with the national emergency. These projects will deter illegal entry, increase the vanishing time of those illegally crossing the border, and channel migrants to ports of entry. They will reduce the demand for DoD personnel and assets at the locations where the barriers are constructed and allow the redeployment of DoD personnel and assets to other high-traffic areas on the border without barriers. In short, these barriers will allow DoD to provide support to DHS more efficiently and effectively. In this respect, the contemplated construction projects are force multipliers.

Accordingly, I have authorized and directed the Acting Secretary of the Army to undertake these 11 projects expeditiously, and, as authorized by Section 2808, to do so without regard to any other provision of law that may impede the expeditious construction of such projects in response to the national emergency. A description of and the estimated cost for each project, including the cost of any associated real estate actions, can be found in the enclosure.

I have further authorized and directed the Acting Under Secretary of Defense (Comptroller)/Chief Financial Officer to ensure that up to \$3.6 billion in unobligated military construction funds are available for the purpose of undertaking the specified military construction projects. The funds being made available are associated only with deferred military construction projects that are not scheduled for award until fiscal year 2020 or later and do not include any family housing, barracks, or dormitory projects. Furthermore, I have directed the Acting Under Secretary of Defense (Comptroller) to prioritize deferred military construction projects such that, initially, only funds associated with deferred military construction projects outside of the United States will be made available to the Department of the Army. This will

provide for approximately \$1.8 billion of the required funds. The remaining \$1.8 billion associated with deferred military construction projects located in the United States (including U.S. territories) will be made available to the Secretary of the Army when it is needed for obligation. My intent in prioritizing funds in this manner is to provide time to work with you to determine opportunities to restore funds for these important military construction projects as well as to work with our allies and partners in improving cost burden sharing for the overseas construction projects.

I am sending an identical letter to the other Congressional defense committees.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark E. Spitzer". The signature is written in a cursive, somewhat stylized font.

Enclosure:
As stated

cc:
The Honorable Kay Granger
Ranking Member

List of Military Construction Projects

Yuma Project 2 (\$40M): Replacement of one segment of primary pedestrian fencing on the Barry M. Goldwater Range starting 2.5 miles east of Border Monument 198 and extending east to Border Monument 297, for a total of approximately 1.5-2 miles.

Yuma Project 10/27 (\$527M): Construction of approximately 31 miles of a new secondary pedestrian fence system on the Barry M. Goldwater Range.

Yuma Project 3 (\$630M): Replacement of 31 miles of vehicle barriers with new pedestrian fencing, beginning approximately 0.4 miles east of the Barry M. Goldwater Range and continuing for approximately 31 miles east through the Cabeza Prieta National Wildlife Refuge in Yuma County.

San Diego Project 4 (\$67M): Construction of 1.5 miles of a new primary pedestrian fence system starting 3.6 miles east of the Otay Mesa Port of Entry (POE), extending east, and construction of 2 miles of a new secondary pedestrian fence system starting 3.6 miles east of the Otay Mesa POE, extending east.

Yuma Project 6 (\$65M): Construction of approximately 1 mile of a new primary pedestrian fence system starting at Andrade POE and extending a half mile west of monument marker 206, then resuming east of the Colorado River and extending south one mile; and construction of 2 miles of a new secondary pedestrian fence system starting a half mile east of monument marker 208 and extending east to the Colorado River, and then resuming on the east side of the Colorado river and extending south for approximately one mile.

El Paso Project 2 (\$476M): Replacement of 23.51 miles of vehicle barriers with new pedestrian fencing in noncontiguous segments within Hidalgo and Luna Counties, New Mexico.

- The first segment begins approximately 5.1 miles east of the New Mexico/Arizona Border, continuing east for 4.55 miles.
- The second segment begins approximately 3 miles west of the Antelope Wells POE to 3 miles east of the POE for 6.12 miles.
- The third segment begins approximately 20 miles west of the Columbus POE, extending west for 12.84 miles.

El Paso Project 8 (\$164M): Construction of approximately 6 miles of a new primary pedestrian fence system in place of existing vehicle barriers starting 1.5 miles west of monument marker 64 and extending 2 miles east of monument marker 63; and construction of approximately 6 miles of a new secondary pedestrian fence system starting 1.5 miles west of monument marker 64 and extending 2 miles east of monument marker 63.

San Diego Project 11 (\$57M): Construction of approximately 3 miles of a new secondary pedestrian fence system starting 2 miles west of the Tecate POE and extending to 1.5 miles east of the Tecate POE.

El Centro Project 5 (\$20M): Construction of approximately 1 mile of a new secondary pedestrian fence system starting 0.5 mile west of the Calexico West POE, extending 1 mile east of the Calexico West POE.

Laredo Project 7 (\$1,268M): Construction of approximately 52 miles of a new primary pedestrian fence system starting from the Laredo-Columbia Solidarity POE North West for approximately 52 miles along the Rio-Grande River.

El Centro Project 9 (\$286M): Construction of approximately 12 miles of a new secondary pedestrian fence system, starting 1.5 miles west of monument marker 223 and ending at monument marker 221, and resuming 1 mile east of the Calexico West POE and extending east for 3 miles.

Enclosure

TAB

C



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

9/3/19

The Honorable Kevin McAleenan
Acting Secretary of Homeland Security
Washington, DC 20528

Dear Mr. Secretary:

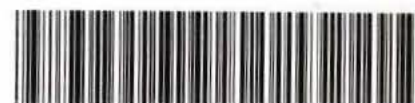
The Department of Defense appreciates that the Department of Homeland Security (DHS) confronts a continuing crisis at the southern border. On February 15, 2019, the President declared that a national emergency exists at the southern border that requires the use of the armed forces, making available certain emergency authorities, including 10 U.S.C. § 2808.

Section 2808 provides that, in the event of a declaration by the President of a national emergency requiring the use of the armed forces, "the Secretary of Defense, without regard to any other provision of law, may undertake military construction projects, and may authorize the Secretaries of the military departments to undertake military construction projects, not otherwise authorized by law that are necessary to support such use of the armed forces."

Based on analysis and advice from the Chairman of the Joint Chiefs of Staff and input from the Commander, U.S. Army Corps of Engineers, the Department of Homeland Security (DHS), and the Department of the Interior and pursuant to the authority granted to me in Section 2808, I have determined that 11 military construction projects along the international border with Mexico, with an estimated total cost of \$3.6 billion, are necessary to support the use of the armed forces in connection with the national emergency. These projects will deter illegal entry, increase the vanishing time of those illegally crossing the border, and channel migrants to ports of entry. They will reduce the demand for DoD personnel and assets at the locations where the barriers are constructed and allow the redeployment of DoD personnel and assets to other high-traffic areas on the border without barriers. In short, these barriers will allow DoD to provide support to DHS more efficiently and effectively. In this respect, the contemplated construction projects are force multipliers.

I therefore have authorized and directed the Acting Secretary of the Army to undertake expeditiously the border barrier military construction projects specified in the enclosure and, as authorized by Section 2808, to do so without regard to any other provision of law that could impede such expeditious construction in response to the national emergency. The Secretary of the Army will immediately apply for and accept administrative jurisdiction of real property from other Federal departments and agencies, including DHS and DOI, and acquire non-Federal real property necessary to undertake the specified military construction projects.

I have directed the Acting Secretary of the Army to immediately proceed to construct 33 miles of border barrier on the Barry M. Goldwater Range (BMGR), identified as Yuma 10/27 and Yuma 2, to the extent the land is already under the jurisdiction of the Secretary of the Navy. The Acting Secretary of the Army will proceed with construction of the remaining projects as



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soon as the requisite land is under the administrative jurisdiction of the Department of the Army and reflected in its records as a military installation.

The Acting Secretary of the Army and the Commander, U.S. Army Corps of Engineers, are authorized to coordinate directly with the Department of Homeland Security, Department of the Interior, and Department of Justice, including any of their components, on any matters required to execute these projects.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt. Egan". The signature is written in a cursive, slightly slanted style.

Enclosure:
As stated

List of Military Construction Projects

Yuma Project 2 (\$40M): Replacement of one segment of primary pedestrian fencing on the Barry M. Goldwater Range starting 2.5 miles east of Border Monument 198 and extending east to Border Monument 197, for a total of approximately 1.5-2 miles.

Yuma Project 10/27 (\$527M): Construction of approximately 31 miles of a new secondary pedestrian fence system on the Barry M. Goldwater Range.

Yuma Project 3 (\$630M): Replacement of 31 miles of vehicle barriers with new pedestrian fencing, beginning approximately 0.4 miles east of the Barry M. Goldwater Range and continuing for approximately 31 miles east through the Cabeza Prieta National Wildlife Refuge in Yuma County.

San Diego Project 4 (\$67M): Construction of 1.5 miles of a new primary pedestrian fence system starting 3.6 miles east of the Otay Mesa Port of Entry (POE), extending east, and construction of 2 miles of a new secondary pedestrian fence system starting 3.6 miles east of the Otay Mesa POE, extending east.

Yuma Project 6 (\$65M): Construction of approximately 1 mile of a new primary pedestrian fence system starting at Andrade POE and extending a half mile west of monument marker 206, then resuming east of the Colorado River and extending south one mile; and construction of 2 miles of a new secondary pedestrian fence system starting a half mile east of monument marker 208 and extending east to the Colorado River, and then resuming on the east side of the Colorado river and extending south for approximately one mile.

El Paso Project 2 (\$476M): Replacement of 23.51 miles of vehicle barriers with new pedestrian fencing in noncontiguous segments within Hidalgo and Luna Counties, New Mexico.

- The first segment begins approximately 5.1 miles east of the New Mexico/Arizona Border, continuing east for 4.55 miles.
- The second segment begins approximately 3 miles west of the Antelope Wells POE to 3 miles east of the POE for 6.12 miles.
- The third segment begins approximately 20 miles west of the Columbus POE, extending west for 12.84 miles.

El Paso Project 8 (\$164M): Construction of approximately 6 miles of a new primary pedestrian fence system in place of existing vehicle barriers starting 1.5 miles west of monument marker 64 and extending 2 miles east of monument marker 63; and construction of approximately 6 miles of a new secondary pedestrian fence system starting 1.5 miles west of monument marker 64 and extending 2 miles east of monument marker 63.

San Diego Project 11 (\$57M): Construction of approximately 3 miles of a new secondary pedestrian fence system starting 2 miles west of the Tecate POE and extending to 1.5 miles east of the Tecate POE.

El Centro Project 5 (\$20M): Construction of approximately 1 mile of a new secondary pedestrian fence system starting 0.5 mile west of the Calexico West POE, extending 1 mile east of the Calexico West POE.

Laredo Project 7 (\$1,268M): Construction of approximately 52 miles of a new primary pedestrian fence system starting from the Laredo-Columbia Solidarity POE North West for approximately 52 miles along the Rio-Grande River.

El Centro Project 9 (\$286M): Construction of approximately 12 miles of a new secondary pedestrian fence system, starting 1.5 miles west of monument marker 223 and ending at monument marker 221, and resuming 1 mile east of the Calexico West POE and extending east for 3 miles.

Enclosure

TAB

D



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

9/3/19

The Honorable David Bernhardt
Secretary of the Interior
Washington, DC 20240

Dear Mr. Secretary:

On February 15, 2019, the President declared that a national emergency exists at the southern border that requires the use of the armed forces, making available certain emergency authorities, including 10 U.S.C. § 2808.

Section 2808 provides that, in the event of a declaration by the President of a national emergency requiring the use of the armed forces, "the Secretary of Defense, without regard to any other provision of law, may undertake military construction projects, and may authorize the Secretaries of the Military Departments to undertake military construction projects, not otherwise authorized by law that are necessary to support such use of the armed forces."

Based on analysis and advice from the Chairman of the Joint Chiefs of Staff and input from the Commander, U.S. Army Corps of Engineers, the Department of Homeland Security (DHS), and the Department of the Interior and pursuant to the authority granted to me in Section 2808, I have determined that 11 military construction projects along the international border with Mexico, with an estimated total cost of \$3.6 billion, are necessary to support the use of the armed forces in connection with the national emergency. These projects will deter illegal entry, increase the vanishing time of those illegally crossing the border, and channel migrants to ports of entry. They will reduce the demand for DoD personnel and assets at the locations where the barriers are constructed and allow the redeployment of DoD personnel and assets to other high-traffic areas on the border without barriers. In short, these barriers will allow DoD to provide support to DHS more efficiently and effectively. In this respect, the contemplated construction projects are force multipliers.

I therefore authorized and directed the Acting Secretary of the Army to undertake expeditiously the border barrier military construction projects specified in the enclosure, including the acquisition of lands and transfer of administrative jurisdiction, as authorized by section 2808, and to do so without regard to any other provision of law that could impede the expeditious construction of such projects in response to the national emergency. Section 2808 provides the Department with the legal authority required to acquire the land necessary to undertake the military construction projects that I have determined are necessary to support the use of the armed forces in connection with the February 15, 2019 declaration of national emergency.

Several of these 11 border barrier military construction projects have portions that are on two types of Federal land: public domain lands governed by section 204 of the Federal Land



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Policy and Management Act (title 43, U.S. Code, section 1714) and Federal property governed by the Federal Property and Administrative Services Act (40 U.S.C. 571, et seq.). The USACE has been working with the DOI and its agencies to describe in sufficient detail the land needed for these projects (and the appropriate transfer method) so that the Department of the Army may expeditiously obtain administrative jurisdiction over such lands and reflect the lands in its records as a military installation.

Utilizing the authority provided to the Secretary of Defense in section 2808 to undertake, without regard to any other provision of law, military construction projects necessary to support the use of the armed forces in connection with the national emergency, I have directed the Acting Secretary of the Army to request from DOI emergency withdrawal of all public lands required for these projects from all public land laws and transfer of administrative jurisdiction of such lands to the Secretary of the Army. I have further directed the Acting Secretary of the Army, with respect to property governed by the Federal Property and Administrative Services Act, to request that the Federal land holding agency, through the General Services Administration, expeditiously and without charge transfer administrative jurisdiction over such lands to the Acting Secretary of the Army.

My points of contact are Kenneth Rapuano, Assistant Secretary of Defense for Homeland Defense and Global Security, and Lieutenant General Todd Semonite, Commander, U.S. Army Corps of Engineers.

Sincerely,

A handwritten signature in black ink that reads "Matt T. Egan". The signature is written in a cursive, slightly slanted style.

Enclosure:
As stated

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E

List of Military Construction Projects

Yuma Project 2 (\$40M): Replacement of one segment of primary pedestrian fencing on the Barry M. Goldwater Range starting 2.5 miles east of Border Monument 198 and extending east to Border Monument 297, for a total of approximately 1.5-2 miles.

Yuma Project 10/27 (\$527M): Construction of approximately 31 miles of a new secondary pedestrian fence system on the Barry M. Goldwater Range.

Yuma Project 3 (\$630M): Replacement of 31 miles of vehicle barriers with new pedestrian fencing, beginning approximately 0.4 miles east of the Barry M. Goldwater Range and continuing for approximately 31 miles east through the Cabeza Prieta National Wildlife Refuge in Yuma County.

San Diego Project 4 (\$67M): Construction of 1.5 miles of a new primary pedestrian fence system starting 3.6 miles east of the Otay Mesa Port of Entry (POE), extending east, and construction of 2 miles of a new secondary pedestrian fence system starting 3.6 miles east of the Otay Mesa POE, extending east.

Yuma Project 6 (\$65M): Construction of approximately 1 mile of a new primary pedestrian fence system starting at Andrade POE and extending a half mile west of monument marker 206, then resuming east of the Colorado River and extending south one mile; and construction of 2 miles of a new secondary pedestrian fence system starting a half mile east of monument marker 208 and extending east to the Colorado River, and then resuming on the east side of the Colorado river and extending south for approximately one mile.

El Paso Project 2 (\$476M): Replacement of 23.51 miles of vehicle barriers with new pedestrian fencing in noncontiguous segments within Hidalgo and Luna Counties, New Mexico.

- The first segment begins approximately 5.1 miles east of the New Mexico/Arizona Border, continuing east for 4.55 miles.
- The second segment begins approximately 3 miles west of the Antelope Wells POE to 3 miles east of the POE for 6.12 miles.
- The third segment begins approximately 20 miles west of the Columbus POE, extending west for 12.84 miles.

El Paso Project 8 (\$164M): Construction of approximately 6 miles of a new primary pedestrian fence system in place of existing vehicle barriers starting 1.5 miles west of monument marker 64 and extending 2 miles east of monument marker 63; and construction of approximately 6 miles of a new secondary pedestrian fence system starting 1.5 miles west of monument marker 64 and extending 2 miles east of monument marker 63.

San Diego Project 11 (\$57M): Construction of approximately 3 miles of a new secondary pedestrian fence system starting 2 miles west of the Tecate POE and extending to 1.5 miles east of the Tecate POE.

El Centro Project 5 (\$20M): Construction of approximately 1 mile of a new secondary pedestrian fence system starting 0.5 mile west of the Calexico West POE, extending 1 mile east of the Calexico West POE.

Laredo Project 7 (\$1,268M): Construction of approximately 52 miles of a new primary pedestrian fence system starting from the Laredo-Columbia Solidarity POE North West for approximately 52 miles along the Rio-Grande River.

El Centro Project 9 (\$286M): Construction of approximately 12 miles of a new secondary pedestrian fence system, starting 1.5 miles west of monument marker 223 and ending at monument marker 221, and resuming 1 mile east of the Calexico West POE and extending east for 3 miles.

TAB

F

DECLARING A NATIONAL EMERGENCY CONCERNING THE SOUTHERN BORDER
OF THE UNITED STATES

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

The current situation at the southern border presents a border security and humanitarian crisis that threatens core national security interests and constitutes a national emergency. The southern border is a major entry point for criminals, gang members, and illicit narcotics. The problem of large-scale unlawful migration through the southern border is long-standing, and despite the executive branch's exercise of existing statutory authorities, the situation has worsened in certain respects in recent years. In particular, recent years have seen sharp increases in the number of family units entering and seeking entry to the United States and an inability to provide detention space for many of these aliens while their removal proceedings are pending. If not detained, such aliens are often released into the country and are often difficult to remove from the United States because they fail to appear for hearings, do not comply with orders of removal, or are otherwise difficult to locate. In response to the directive in my April 4, 2018, memorandum and subsequent requests for support by the Secretary of Homeland Security, the Department of Defense has provided support and resources to the Department of Homeland Security at the southern border. Because of the gravity of the current emergency situation, it is necessary for the Armed Forces to provide additional support to address the crisis.

NOW, THEREFORE, I, DONALD J. TRUMP, by the authority vested in me by the Constitution and the laws of the United States of America, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 et seq.), hereby declare that

a national emergency exists at the southern border of the United States, and that section 12302 of title 10, United States Code, is invoked and made available, according to its terms, to the Secretaries of the military departments concerned, subject to the direction of the Secretary of Defense in the case of the Secretaries of the Army, Navy, and Air Force. To provide additional authority to the Department of Defense to support the Federal Government's response to the emergency at the southern border, I hereby declare that this emergency requires use of the Armed Forces and, in accordance with section 301 of the National Emergencies Act (50 U.S.C. 1631), that the construction authority provided in section 2808 of title 10, United States Code, is invoked and made available, according to its terms, to the Secretary of Defense and, at the discretion of the Secretary of Defense, to the Secretaries of the military departments.

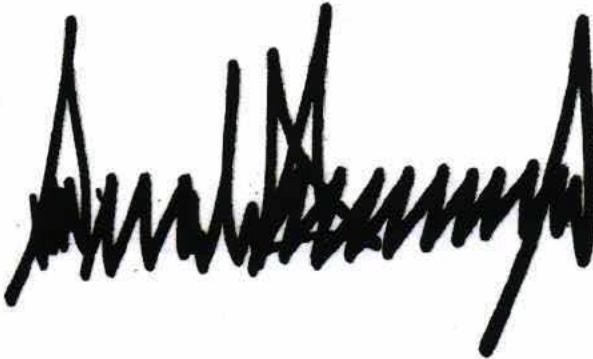
I hereby direct as follows:

Section 1. The Secretary of Defense, or the Secretary of each relevant military department, as appropriate and consistent with applicable law, shall order as many units or members of the Ready Reserve to active duty as the Secretary concerned, in the Secretary's discretion, determines to be appropriate to assist and support the activities of the Secretary of Homeland Security at the southern border.

Sec. 2. The Secretary of Defense, the Secretary of the Interior, the Secretary of Homeland Security, and, subject to the discretion of the Secretary of Defense, the Secretaries of the military departments, shall take all appropriate actions, consistent with applicable law, to use or support the use of the authorities herein invoked, including, if necessary, the transfer and acceptance of jurisdiction over border lands.

Sec. 3. This proclamation is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of February, in the year of our Lord two thousand nineteen, and of the Independence of the United States of America the two hundred and forty-third.

A large, bold, handwritten signature in black ink, appearing to be a stylized name, possibly 'Donald Trump', written in a cursive or semi-cursive style.

TAB

G

10 U.S.C. § 2808
**Construction Authority in the Event of a Declaration of War
or a National Emergency**

- “In the event of a declaration of war or the *declaration* by the President of a *national emergency* in accordance with the National Emergencies Act (50 U.S.C. 1601 et seq.) *that requires use of the armed forces*, the *Secretary of Defense, without regard to any other provision of law, may undertake military construction projects*, and may authorize the Secretaries of the military departments to undertake military construction projects, not otherwise authorized by law *that are necessary to support such use of the armed forces*. Such projects may be undertaken only within the total amount of funds that have been appropriated for military construction, including funds appropriated for family housing, that have not been obligated.”

Section 2808 Is Only Available:

1. In the event of a declaration of a national emergency that requires use of the armed forces and that specifically makes Section 2808 available;
2. For construction that is military construction as defined in 10 U.S.C. § 2801; and
3. If the Secretary of Defense determines that the military construction projects are necessary to support the use of the armed forces in connection with the national emergency requiring use of the armed forces.

National Emergency Declaration

- In a proclamation dated February 15, 2019, the President declared “that *a national emergency exists* at the southern border of the United States To provide additional authority to the Department of Defense to support the Federal Government's response to the emergency at the southern border, I hereby declare that *this emergency requires use of the Armed Forces* and, in accordance with section 301 of the National Emergencies Act (50 U.S.C. 1631), that *the construction authority provided in section 2808 of title 10, United States Code is invoked and made available*, according to its terms, to the Secretary of Defense and, at the discretion of the Secretary of Defense, to the Secretaries of the military departments.”
- The February 15, 2019, proclamation is a declaration of a national emergency that requires use of the armed forces and that specifically makes Section 2808 available.

Border Barrier Projects Are Military Construction Projects

- As defined in Section 2801 of Title 10, U.S. Code:
 - Military construction "as used in this chapter or any other provision of law includes any construction, development, conversion, or extension of any kind *carried out with respect to a military installation*, whether to satisfy temporary or permanent requirements, or *any acquisition of land* or construction of a defense access road (as described in section 210 of title 23).”
 - "The term '*military installation*' means a base, camp, post, station, yard, center, or other activity *under the jurisdiction of the Secretary of a military department* or, in the case of an activity in a foreign country, under the operational control of the

Secretary of a military department or the Secretary of Defense, without regard to the duration of operational control."

- The authority provided by Section 2808 to undertake a military construction project includes the authority to acquire the land necessary to undertake that project. Section 2808 authorizes the Secretary of Defense to "undertake **military construction** projects, not otherwise authorized by law that are necessary to support such use of the armed forces." Because Section 2801 of Title 10, U.S. Code, defines **military construction** as including "any acquisition of land or construction of a defense access road," the military construction authority provided by Section 2808 also authorizes the associated land acquisition.
- In order for a border barrier construction project to be a military construction project, the project must be "carried out with respect to a military installation." Therefore, prior to awarding a contract for construction of a border barrier:
 - For lands under the jurisdiction of another Federal department or agency, that Federal landholding agency must transfer administrative jurisdiction over the Federal land to the Secretary of a Military Department;
 - For non-Federal lands, the Secretary of a Military Department must acquire the non-Federal land through purchase or condemnation; and
 - Once transferred or acquired, the Secretary of a Military Department must accept custody and accountability over the land and report the land in its inventory, either as a new installation or as part of an existing, nearby military installation.

Border Barrier Military Construction Projects Are Necessary to Support the Use of the Armed Forces in Connection with the National Emergency

The decision whether to undertake a specific military construction project under Section 2808 is vested in the Secretary of Defense and is based on the Secretary's professional judgment that undertaking a military construction project is necessary to support the use of the armed forces.

TAB

H

TAB H – Necessity of Border Barriers
Summary of Supporting Analysis

- This document summarizes analysis provided by the Chairman of the Joint Chiefs of Staff (CJCS) and the Department of Homeland Security (DHS) and provides further context from the Office of the Under Secretary of Defense for Policy supporting a decision to undertake the eleven specified military construction projects pursuant to 10 U.S.C. § 2808.
- Section 2808 authorizes the Secretary of Defense to undertake military construction projects that are necessary to support the use of the armed forces in connection with a declaration of national emergency requiring use of the armed forces. A description of Section 2808's requirements can be found at Tab G.
- Since April 4, 2018, there have been **29** requests for assistance from the Department of Homeland Security (DHS) for DoD support at the southern border, and DoD currently has approximately 5,540 personnel supporting DHS's border security mission. The number of migrant apprehensions by U.S. Border Patrol for Fiscal Year (FY) 2019 through July 2019 (760,370) has already exceeded the total number of apprehensions in FY 2018 (396,579) and FY 2017 (303,916).
 - Customs and Border Protection (CBP) expects another 100,000 apprehensions in August 2019.
- The high number of monthly apprehensions places a considerable strain on CBP detention facilities and personnel. Approximately 40 percent of U.S. Border Patrol (USBP) agents are assigned to processing and detention duties during every 8-hour shift, with another 54 percent of agents performing other administrative duties and training or operating in an off-duty status. This leaves approximately 6 percent of USBP personnel for operations and patrols across the entire 1,954-mile southern border – or approximately 330 agents for each 8-hour shift.
- The USBP's role in CBP's border security mission is to gain, maintain, and expand operational control of the U.S. border between ports of entry. According to DHS, operational control between ports of entry is achieved by establishing situational awareness of the border area, developing the capability to impede and deny illegal entry, and effectively delivering an appropriate law enforcement response and resolution to illicit activity.
- According to DHS, each DoD person deployed in support of DHS "frees up" a CBP agent to be employed in a direct law enforcement capacity in areas of heavy cross-border activity. As such, DoD deployments in support of DHS at the southern border have primarily been oriented towards support roles that relieve DHS personnel of non-law enforcement duties (e.g., logistics, planning, and intelligence analysis) or that provide monitoring and detection support (i.e., operating mobile surveillance camera units or providing aerial reconnaissance).
- Physical barriers like pedestrian fencing are the primary means by which DHS has sought to deter, contain, channel, or interdict illicit activity. DHS has identified 12 capabilities required to achieve operational control of the southern border and has ranked impeding and denying unlawful entry, provided primarily by **artificial barriers**, as the **most important of these critical capabilities**.
 - As noted in the CJCS assessment, a 2007 Congressional Research Service Report determined that fencing or a wall is critical to the detection and identification of illegal entry, particularly in urban areas.

- Barriers are the capability most frequently identified by CBP field commanders as necessary to establish operational control at the border.
- For example, DHS has opined that physical barriers prevent incursions into the communities, businesses, and other sensitive areas proximate to the border; reduce the enforcement footprint and compress USBP operations; increase vanishing times or eliminate “quick” vanishing times (i.e., the time it takes for illegal border crossers to disappear into the surrounding environment and evade apprehension); and provide a force multiplier effect by increasing the efficacy and efficiency of DoD resources.
- There is historical evidence tending to show that physical barriers have been effective along the southern border.
 - In 1992, the San Diego Sector was the epicenter of illegal immigration and narcotics trafficking. During Operation Gatekeeper, DoD provided personnel and technology and constructed roads and barriers. By 2010, apprehensions were down 88 percent in the Sector. By 2015, apprehensions were down 95 percent from 1992 levels.
 - In 1993, a similar strategy was employed by DoD as part of Operation Hold the Line in the El Paso Sector. By 2015, apprehensions were down 95 percent from 1993 apprehension levels.
- DHS states that “the border barrier projects that DHS recommends that DoD undertake pursuant to 10 U.S.C. § 2808 will fundamentally change the border dynamic, give a distinct and enduring advantage to USBP as a force multiplier, and provide agents capabilities to respond more quickly to illicit activities.”
 - Moreover, DHS finds that the construction of border barriers will “likely reduce DHS’s reliance on DoD for force protection, surveillance support, engineering support, air support, logistical support, and strategic communications assistance.”

Recommendations of the CJCS

- Building on the above analysis, the CJCS analyzed the construction projects proposed by DHS for construction under 10 U.S.C. 284 and Section 2808 in order to determine which projects could best support use of the armed forces in addressing the national emergency at the southern border. The CJCS analysis identified and considered four key factors: DHS’s prioritization of projects, current migrant flows as measured by monthly apprehensions in each CBP sector, current deployment of military personnel and support missions by CBP sector, and the type of land (Federal or private) upon which the proposed projects are expected to be undertaken.
 - The type of land was considered because, at the time of the CJCS analysis, the understanding was that construction could begin more quickly on Federal land than on private land. A delay in constructing border barriers could adversely affect the government’s ability to re-prioritize DoD support and concentrate CBP resources.
 - The CJCS assessment, however, was developed prior to notice from DHS that it lacked the authority to transfer administrative jurisdiction of the necessary lands and subsequent consultation with the Department of the Interior (DOI) regarding the time required and limitations on transferring such jurisdiction. Before consulting with DOI, it was understood that acquiring private land, and subsequently building border barrier on such land, would take longer than building on Federal land.
 - After consultation with DOI, it also became apparent that there was considerably more private land on the DHS prioritized list than originally understood, and that the

administrative jurisdiction of certain Federal lands could not be transferred to a Military Department. The detailed analysis of each project below incorporates this updated information from DOI.

- Although the CJCS found that, in general, barrier construction in one CBP sector has ripple effects across all other sectors, given finite resources, certain construction projects are more beneficial than others in supporting the use of the armed forces.
 - To that end, the CJCS independently re-prioritized DHS’s list of requested border barrier projects based on the factors listed above. The following eleven projects would cost an estimated \$3.6 billion. The apprehension figures in the chart below are current through July 31, 2019.

JS Rank	CBP Border Group Priority	Sector / Project	Miles	Apprehension FY19TD (FY18 Total)	Military Personnel in Sector / MSC Sites	Land Type	Projected Cost (\$M)
1	8	El Paso 8 Sect. 1 & 2	12	167,395 (31,561)	1,512 / ■	Non-Fed	\$164M
2	30	El Paso 2	24			FED	\$476M
3	4	San Diego 4 Sect. 1 & 2	3.5	51,296 (38,591)	237 / ■	FED	\$67M
4	11	San Diego 11	3			Non-Fed	\$57M
5	10/27	Yuma 10/27	31	65,362 (26,244)	338 / ■	FED	\$527M
6	6	Yuma 6 Sect. 1 & 2	3			FED	\$65M
*NR	10	Yuma 2	2			FED	\$40M
**NR	27	Yuma 3	31			FED	\$630M
7	7	Laredo 7	52	32,717 (32,641)	304 / ■	Non-Fed	\$1,268M
8	5	El Centro 5	1	30,464 (29,230)	102 / ■	Non-Fed	\$20M
9	9	El Centro 9	12			Non-Fed	\$286M
Total Projects: 11; Total Miles: 175; Total Cost: \$3.6B							

* Yuma 2 was not included in the CJCS priority ranking; however, like Yuma 10/27, Yuma 2 is entirely on the Barry M. Goldwater Range.

**Yuma 3 was not included in the CJCS priority ranking due to expected availability of funds for construction under Section 2808. The CJCS assessment did confirm that the border project was necessary to support the use of the armed forces.

Assessment by CBP Sector

All information on the deployment of military personnel is current as of August 13, 2019. There are 2,979 active duty personnel and 2,802 National Guard personnel deployed at the southern border. Active-duty and National Guard support is being provided in all nine CBP Sectors.

For the active duty component of DoD support, 679 personnel are undertaking logistics, transportation, maintenance, and analyst support as a backfill for National Guard personnel in support of CBP's Operation Guardian Support (CBP's named mission for securing the southwest border). There are also 300 active duty personnel providing support at CBP detention facilities at the southern border, including by providing transportation support (160 personnel) and assisting with welfare checks and migrant feeding (100 personnel). The remaining 40 active-duty personnel provide command and control for this support. All other active duty personnel providing support in the CBP Sectors listed below are undertaking detection and monitoring, force protection, engineering, and command and control missions.

National Guard personnel are undertaking aerial support, infrastructure and maintenance support, detection and intelligence support, and logistics support missions. The Texas National Guard is also providing additional support at detention centers and at ports of entry in Texas, as highlighted below.

- **El Paso Sector Projects:**

- The El Paso Sector has the largest presence of military personnel. There are **877** active-duty and **635** National Guard Service members in this sector. The active duty forces include a crisis response force and associated UH-60 helicopter crews stationed at Fort Bliss on a 48-hour prepare-to-deploy order in support of DHS and crews associated with an additional four UH-60 helicopter crews and one UH-72 helicopter crew undertaking detection and monitoring missions. The crisis response force is deployable across the Southwest Border. The 635 National Guard personnel in this Sector also include 386 Texas National Guard personnel deployed in support of CBP detention operations and operations at ports of entry.
- The El Paso Sector has a significant number of deployed mobile surveillance camera sites ■■■ due to the rugged terrain, which limits visibility, and the sparse existing pedestrian fencing, which limits CBP's ability to monitor large areas and respond quickly.
- The El Paso Sector has the second largest number of apprehensions of any CBP sector.
- The first project (El Paso 8 Section 1 and El Paso 8 Section 2) are expected to channel migrants to the Antelope Wells port of entry and increase what are currently fast vanishing times due to the proximity of Highway 81. Further, the rugged terrain on both sides of the border presents hazards for both migrants and CBP agents, which a barrier would mitigate by discouraging border crossings in this area.
- The second project (El Paso 2) comprises 24 miles of non-contiguous barrier, including sections near the Antelope Wells port of entry. Although a lower priority for CBP, the CJCS concluded that packaging this project with the other two El Paso Sector projects would best support the use of the armed forces by bolstering the effectiveness of the first two projects in this high-apprehension sector.
- The CJCS assesses that the additional fencing contemplated for the El Paso Sector will lessen the high level of need for DoD to operate mobile surveillance camera sites.

- The additional fencing contemplated for the El Paso Sector may also allow DoD to focus monitoring and detection assets on unfenced areas within the El Paso Sector or in other CBP Sectors.
- The CJCS noted that Operation Hold the Line, which surged personnel, technology, and physical barriers in the El Paso Sector, helped to substantially decrease the number of apprehensions between 1993 and 2015.
- **San Diego Sector Projects:**
 - There are **179** active duty and **58** National Guard personnel in the San Diego Sector. They operate [REDACTED] mobile surveillance camera sites in the sector.
 - Apprehensions in the San Diego Sector are increasing, with the number of apprehensions in FY 2019 (**51,296**) already exceeding those in FY 2018 (38,581).
 - The San Diego Sector is particularly challenging for migrant interdiction due to the highly urbanized and highly mountainous areas within the Sector, both of which allow for quick vanishing times.
 - The first San Diego Sector project (San Diego 4 Section 1 and San Diego 4 Section 2) would add pedestrian fencing in rugged terrain east of the highly urbanized areas of Otay Mesa and Chula Vista. The second project (San Diego 11) would add new secondary pedestrian fencing on either side of the Tecate port of entry, which is also in an area of rugged terrain where migrants have access to Highway 94.
 - The CJCS assesses that the projects contemplated for the San Diego Sector are expected to channel migrants to existing ports of entry, thereby reducing the need for DoD detection and monitoring between ports of entry.
 - The additional fencing contemplated for the San Diego Sector may also allow DoD to focus monitoring and detection assets on unfenced areas within the San Diego Sector or in other CBP Sectors.
 - The CJCS noted that Operation Gatekeeper, like Operation Hold the Line, introduced border barriers to the San Diego Sector in 1992, helping to decrease apprehensions 95 percent by 2015.
- **Yuma Sector Projects:**
 - There are currently **244** active duty military personnel and **94** National Guard personnel deployed in the Yuma Sector. Most are operating [REDACTED] mobile camera systems.
 - Apprehensions are on the rise in this Sector. So far in FY 2019, there have been **65,362** apprehensions. In all of FY 2018, there were 31,393 total apprehensions.
 - Yuma 10/27 and Yuma project 2 are located on the Barry M. Goldwater Range. It is an active DoD military installation largely under the administrative control of the Department of the Navy. Construction of additional border barriers on the Barry M. Goldwater Range will impede the passage of migrants onto a live-fire range and otherwise divert migrants to ports of entry.
 - Yuma project 2 and Yuma project 3 were requested as part of DHS's request for DoD to build border barrier under Section 284 but not approved, and were excluded from the Joint Staff border barrier assessment.

- Additional fencing in the Yuma Sector will reduce the need for DoD to operate mobile surveillance camera sites that monitor unlawful crossings in the area and allow such assets to be reallocated elsewhere.
- The additional fencing contemplated for the Yuma Sector may also allow DoD to focus monitoring and detection assets on unfenced areas within the Yuma Sector or in other CBP Sectors.
- **Laredo Sector and El Centro Sector Projects:**
 - There are currently **511** active duty military personnel and **390** National Guard personnel deployed in the Laredo Sector. Of the **390** National Guard personnel, there are **70** Texas National Guard personnel deployed in the Laredo Sector in support of CBP detention operations and operations at ports of entry. Active duty personnel operate ■ mobile surveillance camera sites in the Laredo Sector. There are also two UH-72 helicopter crews performing detection and monitoring missions in the Laredo Sector.
 - Apprehensions are up slightly in this Sector. So far in FY 2019, there have been **32,717** apprehensions. They have already exceeded the total number of apprehensions in FY 2018 (32,641).
 - There are currently **46** active duty personnel and 56 National Guard personnel deployed in the El Centro Sector. Active duty personnel also operate ■ mobile surveillance camera sites in this sector.
 - Apprehensions are on the rise in this Sector. So far in FY 2019 there have been **30,464** apprehensions. In all of FY 2018, the total number of apprehensions were 29,230.
 - Additional fencing in these sectors would reduce the need for DoD support to DHS in these areas and enable DoD to redirect personnel and assets to other areas without barriers.

Determinations

- The forgoing data and analysis provide a basis for concluding that, in accordance with Section 2808, the above eleven MILCON projects are necessary to support the use of the armed forces in connection with the national emergency declared by the President on February 15, 2019. The memorandum at TAB A memorializes and implements this determination.
 - DoD has long provided support to DHS in executing its border enforcement and security mission, but the need for such support has become more acute given the significant increase in border crossing apprehensions. This history of DoD support, and the more acute crisis, has been outlined in congressional testimony (e.g., DASD Salesses testimony before the House of Representatives Committee on Homeland Security’s Border Security, Facilitation, and Operations Subcommittee on June 20, 2019).
 - The eleven projects are necessary to support the use of the armed forces because, as the forgoing analysis demonstrates, the construction of such physical barriers will deter illegal entry, increase the vanishing time of illegal border crossers, and channel migrants to points of entry, all of which will reduce the demand for DoD personnel and assets at the locations where the barriers are constructed and allow the redeployment of DoD personnel and assets to other high-traffic areas on the border without barriers or, if the surplus DoD personnel are no longer needed, to other national defense missions.
 - Although these projects may reduce the overall need for DoD support on the border, they likely will not eliminate it. Instead, they will allow DoD to meet DHS’s needs with fewer

personnel and resources. In short, these barriers will allow DoD to provide support to DHS more efficiently and effectively. In this respect, the contemplated construction projects are force multipliers.

TAB

I

Secretary

U.S. Department of Homeland Security
Washington, DC 20528



Homeland Security

March 20, 2019

The Honorable Patrick M. Shanahan
Secretary of Defense (acting)
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Acting Secretary Shanahan:

Thank you for the ongoing support provided by the dedicated men and women of the Department of Defense (DoD) in helping to secure the Nation's borders during this time of National Emergency. Border Security is National Security. DoD's contributions to the national effort to address the historic surge in illegal migration along the southwest border are of the utmost importance now and will continue to be going forward. I cannot overstate my appreciation for your support.

This letter provides the following information regarding your request of February 18, 2019, to support your evaluation of the use of authorities under 10 U.S.C § 2808:

- A prioritized list of proposed border construction projects that will improve the effectiveness and efficiency of DoD personnel supporting Customs and Border Protection (CBP) in securing the southern border;
- A description of the prioritization methodology and supporting statistics; and
- Our analysis of the impact of construction on the effectiveness and efficiency of the border security mission.

On February 15, 2019, the President issued a *Proclamation on Declaring a National Emergency Concerning the Southern Border of the United States*. The proclamation states that "the current situation at the southern border presents a border security and humanitarian crisis that threatens core national security interests and constitutes a national emergency." In order to provide "additional authority to the Department of Defense to support the Federal Government's response to the emergency at the southern border," the President declared "that this emergency requires use of the Armed Forces and, in accordance with section 301 of the National Emergencies Act (50 U.S.C. 1631), that the construction authority provided in section 2808 of title 10, United States Code, is invoked and made available, according to its terms, to the Secretary of Defense and, at the discretion of the Secretary of Defense, to the Secretaries of the military departments."



OSD002762-19/CMD003393-19

The Department of Homeland Security (DHS) continues to face a surge of migrant activity at the border as well as drug and human trafficking. This surge, including the recent phenomenon of large groups of migrants organized into caravans, has placed a tremendous strain on CBP's limited resources. Apprehending and addressing the humanitarian issues presented by these large groups pulls frontline personnel away from regular border enforcement activity, thereby placing border security at risk. Further, this surge is diverting critical homeland security resources away from high priority threats and hampering our efforts to stop transnational criminal organizations (TCO) from compromising our Nation's security. In response to recent requests for assistance from my Department, DoD has provided services and resources to improve national security by aiding the border security mission.

DoD has provided critical support to the border security mission which has been instrumental in making both agents and troops on the ground more efficient by providing the crucial situational awareness. This situational awareness makes agents and troops more effective by allowing DHS and DoD to focus resources in areas with greater threats. The engineering support DoD provides is essential to designing and constructing roads for improved access both to, and laterally along the border. DoD has provided support with other projects such as construction of infrastructure that impedes and denies the illegal entrants the ability to enter the United States easily. DoD protection support assists as a force multiplier by providing a visual deterrent to contemplated hostile actions by bad actors against CBP personnel and deters attempted breaches of the international boundary.

DHS continues to need support from the armed forces to accomplish our Homeland Security mission. To enhance the effectiveness and efficiency of the armed forces support, I recommend construction to extend the border barrier system.

Prioritized List of Proposed Construction Projects that DHS Believes Will Improve the Effectiveness and Efficiency of DoD Personnel Supporting CBP in Securing the Southern Border:

Project Areas

Priority projects in order of effectiveness:

- San Diego Sector Priority 4:
 - Approximately 1.5 miles of new primary pedestrian fence system starting 3.6 miles east of the Otay Mesa Port of Entry (POE) extending east.
 - Approximately 2 miles of new secondary pedestrian fence system starting 3.6 miles east of the Otay Mesa POE extending east.
- El Centro Sector Priority 5:
 - Approximately 1 mile of new secondary pedestrian fence system starting 0.5 mile west of Calexico West POE extending 1 mile east of the Calexico West POE.

- Yuma Sector Priority 6:
 - Approximately 1 mile new primary pedestrian fence system starting at Andrade POE and extending half mile west of monument marker 206, then resuming east of the Colorado River and extending south one mile.
 - Approximately 2 miles new secondary pedestrian fence system starting half mile east of monument marker 208 and extending east to the Colorado River then resuming on the east side of the Colorado river and extending south for approximately one mile.
- Laredo Sector Priority 7:
 - Approximately 52 miles new primary pedestrian fence system starting extending from Laredo-Columbia Solidarity POE North West for approximately 52 miles along the Rio-Grande River.
- El Paso Sector Priority 8:
 - Approximately 6 miles new primary pedestrian fence system in place of existing vehicle barriers starting 1.5 miles west of monument marker 64 and extends 2 miles east of monument marker 63.
 - Approximately 6 miles new secondary pedestrian fence system starting 1.5 miles west of monument marker 64 and extends 2 miles east of monument marker 63.
- El Centro Sector Priority 9:
 - Approximately 12 miles new secondary pedestrian fence system starting 1.5 miles west of monument marker 223 and ending at monument marker 221 and resumes 1 mile east of Calexico West POE and extends for 3 miles.
- Yuma Sector Priority 10 & 27:
 - Approximately 31 miles new secondary pedestrian fence system on the Barry M. Goldwater Range.
- Yuma Sector Priority 10:
 - Approximately 0.5 miles new primary pedestrian fence system starting 6 miles north of the San Luis POE and extends south approximately a half mile.
 - Approximately 7 miles new primary pedestrian fence system in place of existing vehicle barriers starting 6 miles south of monument marker 206 and extending 8 mile south along the Colorado River.
 - Approximately 20 miles new and replacement secondary pedestrian fence system starting at monument marker 209 extending to half mile east of monument marker 208 and resuming 1 mile south of monument marker 206.
- San Diego Sector Priority 11:
 - Approximately 3 miles new secondary pedestrian fence system starting 2 miles west of Tecate POE and extends to 1.5 miles east of Tecate POE.
- Laredo Sector Priority 12:
 - Approximately 75 miles new primary pedestrian fence system starting 1 mile North East of Laredo – Texas Mexican Railway International Bridge POE and extends 75 miles south.

DHS has determined that border barriers are most effective when constructed as part of a system, anchored by the barrier, such as pedestrian fencing, which includes a linear ground detection system, and complemented with lighting with imbedded cameras and roads. In areas protected by both primary and secondary barriers, the road sits between the physical barriers. These interdependent investments are engineered to alter the border environment in support of achieving operational control of the border and defending national security by achieving two objectives.

- Prevent and deter people from attempting illegal entry by convincing would-be entrants through visual indices that they cannot successfully cross through the system without being immediately detected and apprehended; and
- Contain and deny those who remain undeterred and prevent them from passing through the system or enforcement zone, thereby enabling U.S. Border Patrol (USBP) agents to bring the cross-border incursion to a successful law enforcement resolution.

This comprehensive system has proven extremely effective in deterring and impeding illegal crossings into the United States. For the first quarter of Fiscal Year 2019, San Diego, the only area with a robust system described above, interdicted known cross-border illicit activity 95 percent of the time. To that end, DHS recommends that DoD construct border barrier systems to include, and within the Project Areas set forth above: (1) new primary and/or secondary pedestrian fencing that includes a linear ground detection system; (2) replacement of existing vehicle barriers or dilapidated pedestrian fencing with new pedestrian fencing; (3) roads; and (4) lighting with imbedded cameras.

The new pedestrian fencing includes a linear ground detection system, which is intended to, among other functions, alert USBP agents when individuals attempt to damage, destroy or otherwise harm the barrier. The road construction includes the construction of new roads and the improvement of existing roads. The recommended lighting has an imbedded camera that works in conjunction with the pedestrian fence, and it must be supported by grid power.

Given DHS's experience and technical expertise, DHS plans to coordinate closely with DoD throughout project planning and execution on such matters as design specifications, barrier alignment and location, and other aspects of project planning and execution to support barrier construction. DHS requests the opportunity to provide concurrence on final barrier alignments and designs. As much of the proposed construction is new rather than replacement, this coordination will be especially critical to ensure USBP and DoD requirements can be met to the extent possible without adversely impacting local communities.

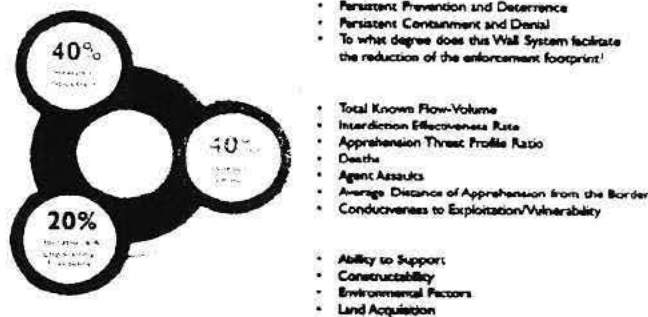
Prioritization and Sequencing Methodology

As a component of CBP, the USBP conducts its mission between POEs in varied and diverse operational environments. In so doing, the USBP has identified 12 master capabilities, executed through a combination of personnel, infrastructure, and technology, as a requirement to achieving operational control of the border. It is important to note that gaining operational control of the border will reduce DHS's requirement for DoD support.

The most important of these critical capabilities is impeding and denying (I&D) unlawful entry, provided primarily through the use of man-made barriers like pedestrian fencing for the purpose of deterring, containing, and/or interdicting illicit activity. The USBP has utilized barriers to successfully support its mission for many years. In order to deploy I&D capability where it would have the greatest positive impact to border security, and by extension, national security, and to ensure the deployments addressed current threats, USBP developed a prioritization methodology to inform barrier investments.

The methodology prioritizes barrier requirements by assessing variables in three pillars — *Strategic Objectives, Border Census, Construction and Engineering Feasibility* — and relies on the subject matter expertise of seasoned agents and field commanders. The process does not base priorities on any single variable, such as apprehensions or vanishing point, which is the amount of time someone crossing the border unlawfully generally has before they have access to shelter and/or transport. Instead, it considers the cumulative scoring across all three pillars as well as information provided through operational review. The result is a comprehensive decision support methodology that is both iterative and evolving; considering the latest available data and incorporating past lessons learned.

Figure 1: Three pillars for prioritizing barrier requirements



Information for each pillar was gathered by each of USBP's Sectors — which delineate a geographical area of responsibility — using: field surveys, strategic assessment of the operational need, and impact of investments; quantitative data on border activity derived from Sector field operations; and feasibility assessments developed by subject matter experts. Each border segment was scored across these three pillars, using quantitative and qualitative input and pillar weightings as defined by CBP subject matter experts.

The tool output results in a complete list of I&D priorities across the southwest border. The list is reviewed and validated by a panel of experts who make the final recommendation to the Chief of the U.S. Border Patrol. The projects identified in this letter are highest priority projects, as developed from the prioritization methodology, for which another funding source has not already been identified.