

SECTION 1.0
BACKGROUND AND INTRODUCTION



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1.1 BACKGROUND

1.1.1 Program Background

The Secure Border Initiative (SBI) is a comprehensive, multi-year plan established by the United States (U.S.) Department of Homeland Security (DHS) in November 2005 to secure America's borders and reduce illegal immigration. The SBI mission is to promote border security strategies that protect against and prevent terrorist attacks and other transnational crimes. In addition, the initiative will coordinate DHS efforts to ensure the legal entry and exit of people and goods moving across our borders and the enforcement of immigration, customs, and agriculture laws at our borders, within the country, and abroad.

SBI_{net} is the component of SBI charged with developing and installing the technology and tactical infrastructure (TI) solutions to gain effective control of our nation's borders. The goal of *SBI_{net}* is to provide the most effective, proven technology, infrastructure, staffing, and response platforms and integrate them into a single comprehensive border security suite for DHS. *SBI_{net}* will improve the tools U.S. Border Patrol (USBP) agents, Customs and Border Protection (CBP) officers, and Air and Marine interdiction agents are currently using to enable them to perform their enforcement roles in a more efficient and effective manner. Gaining effective control of our nation's borders is a critical element of national security, and CBP is the executive agent for *SBI_{net}*, carrying out the program to better execute this vital mission.

CBP will deploy a mix of technology, TI, and personnel based on operational need to gain effective control of each diverse mile of the border. Effective control exists when CBP is consistently able to: (1) detect illegal entries into the U.S., (2) identify and classify these entries to determine the level of threat involved; (3) efficiently and effectively respond to these entries; and, (4) bring each event to a satisfactory law enforcement resolution (Self 2007).

1.1.2 Legislative Background

USBP and other CBP personnel's authority to operate under this proposed project is granted in the Immigration and Nationality Act of 1952, as amended Public Law (P.L.) No. 82-414, June 27, 1952, c.477, 66 Stat. 163, 8 U.S. Code (U.S.C.) 1101 (*et seq.*), and specifically by Section 235, *Inspection by Immigration Officers; Expedited Removal of Inadmissible Arriving Aliens; Referral For Hearing* and Section 287, *Powers of Immigration Officers and Employees*.

In response to increases in illegal border crossings and related illegal activities and in an effort to curb illegal immigration, Congress passed Section 102(a) of the *Illegal Immigration Reform and Immigrant Responsibility Act of 1996* (IIRIRA), P.L. No. 104-208, Div. C, 110 Stat. 3009-546, 3009-554 (Sept. 30, 1996) (8 U.S.C. 1103 note). Under IIRIRA, Congress mandated the construction of barriers along U.S.-Mexico border in areas of high illegal entry. Section 102(a) of IIRIRA specifically deals with *Improvement of Barriers at the Border*, calling for the installation of physical barriers and roads in the vicinity of the U.S. border. Section 102 provides that the Attorney General shall take such actions as may be necessary to install additional physical barriers and roads (including the removal of obstacles to detection of illegal entrants [IEs]) in the vicinity of the international border to deter illegal crossings in areas of high illegal entry into the U.S.

To achieve the objectives of IIRIRA, SBInet plans to design, develop and deploy technology-based solutions to decrease illegal border activities and deter and prevent illegal entry into the U.S.

1.2 INTRODUCTION

This Environmental Assessment (EA) analyzes various aspects of the proposed action. It addresses the potential direct and indirect effects, beneficial and adverse, of the proposed construction, installation, operation, and maintenance of a system of surveillance and communication towers, which include mobile, surveillance,

communications, and a combination of surveillance and communication towers within the USBP Ysleta, Fabens, and Fort Hancock stations' Area of Operation (AO) (Figure 1-1).

Consistent with 40 Code of Federal Regulations (CFR) 1508.28, this EA analyzes direct and indirect site-specific and cumulative environmental impacts of the proposed action. The affected area for this EA is broadly described, tiered, and incorporated from previous National Environmental Policy Act (NEPA) documents, including the *Programmatic Environmental Assessment (PEA) for Proposed Tactical Infrastructure, Office of Border Patrol, El Paso Sector Texas Stations*, October 2006, prepared by DHS/CBP (DHS 2006); and the July 2001 Immigration and Naturalization Service (INS) and Joint Task Force Six (JTF-6) document entitled, *Supplemental Programmatic Environmental Impact Statement (PEIS), Immigration and Naturalization Service and JTF-6 Activities on the Southwest U.S./ Mexico Border* (INS 2001). This EA incorporates by reference as much information as possible from the 2006 DHS PEA and the 2001 INS PEIS. Additionally, new surveys for sensitive resources and tower site characterization have been completed and current information regarding other resources has been updated, as appropriate.

This EA was prepared in compliance with provisions of NEPA of 1969 as amended (42 U.S.C. 4332, [et seq.]), the Council on Environmental Quality's (CEQ) NEPA implementing regulations at 40 CFR Part 1500 (et seq.), and DHS's *Environmental Planning Management Directive* 5100.1 (71 *Federal Register* [FR] 16790).

USBP El Paso Sector provides law enforcement support for the Texas counties of El Paso and Hudspeth, and the New Mexico counties of Hildago, Luna, and Doña Ana. The proposed action would affect three USBP stations (Ysleta, Fabens and Fort Hancock) within El Paso and Hudspeth counties.

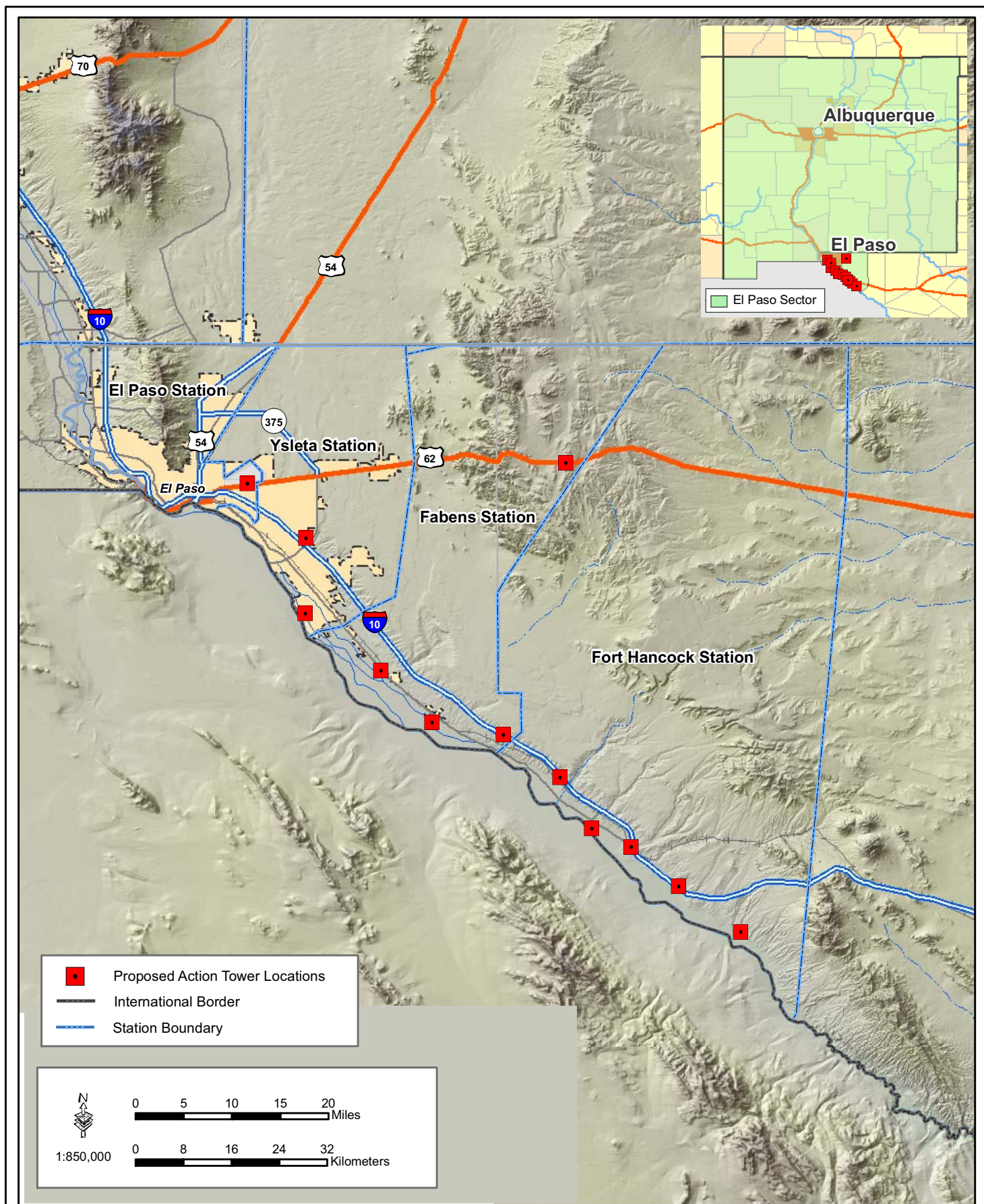


Figure 1-1: Vicinity Map

1.3 PURPOSE AND NEED

The implementation of this proposed project would support USBP's mission and activities of predicting, detecting, identifying, classifying, tracking, and responding to illegal cross-border activities at and between ports of entry (POE) and within the AOs of USBP stations. The project would provide necessary decision support information to assist CBP officers and agents in the resolution of all border incursions.

The purpose of this proposed project is to improve CBP personnel's efficiency and probability of detection, identification, and apprehension of illegal border crossers. Achieving operational control of the border of the U.S. is a key mission objective of CBP. The objective of this project is to develop an effective solution to establish and maintain operational control of the U.S. border along the approximately 74 miles of border in the El Paso Sector, encompassing Ysleta, Fabens, and Fort Hancock stations' AOs.

The need to improve CBP's border control and enforcement capabilities is based on frequency and nature of illegal border activities and their associated costs in time and deployment of border control personnel. The El Paso Sector overall SBInet system design and deployment of technologies within the Common Operating Picture (COP) would improve CBP's operations and meet technical performance objectives for approximately 125 miles of border control and includes the 74 miles covered in this project.

This El Paso Sector SBInet project meets the stated purpose and need by:

- 1) Installing and upgrading technology and infrastructure components to give USBP agents ability to gain, maintain, and strengthen control of the border within proximity of the international boundary (international border to 25 miles inland);
- 2) Including improved surveillance technology solutions to enhance border enforcement capabilities;
- 3) Applying surveillance technologies that would refine detection, interception, and apprehension of IEs; and,

- 4) Reducing crime in border communities by detecting, apprehending, and deterring smugglers of humans, drugs, and other contraband.

1.4 PUBLIC INVOLVEMENT

1.4.1 Public Review

CBP SBInet initiated public involvement and scoping activities as directed by 40 CFR 1501.7, Section 1503, and 1506.6 to identify any significant issues related to the proposed project. This process began in June 2007 through the issuance of 45 coordination letters to interested Federal, state, and local agencies and interested Indian tribes, inviting their participation and input regarding the project. Seven responses were received. These letters and responses are included in Appendix A.

A public scoping meeting was held in July 2007 to present and discuss plans for the project and to explain how this action would be analyzed in this EA. Members of the public in attendance were invited to provide comments and questions about the proposed project after the presentation. A transcript of this public scoping meeting is included in Appendix B.

Additionally, a Notice of Availability (NOA) for the draft EA and the proposed Finding of No Significant Impact (FONSI) was published in the *El Paso Times* in English and a Spanish translated version in *El Diario* on January 4, 2008, to solicit comments on the proposed project and involve the local community in the decision-making process. A proof of publication of the NOA is also included in Appendix A. Applicable and pertinent comments from the public and other Federal, state, and local agencies and Indian tribes from the 30-day public review and comment period were addressed in the EA and included in Appendix A. CBP received a letter from the Ysleta del Sur Pueblo Tribal Historic Preservation Office (THPO) stating that they had no opposition to the proposed project and that they felt there are no adverse effects on their Pueblo. The Pueblo did request to be a consulting party in the Section 106 process and as such will also be contacted if any unknown cultural remains as determined under Native American Graves Protection and Repatriation Act (NAGPRA) guidelines should be unearthed

during implementation of the proposed action. Additionally, the Texas State Historic Preservation Office (SHPO) submitted a letter concurring with SBLnet's determination that no adverse impacts would occur on historic properties. The Texas SHPO requested changes to the cultural resources report and those revisions have been made. U.S. Fish and Wildlife Service (USFWS) also replied to CBP upon review of the draft EA and specifically noted concerns regarding the aplomado falcon. CBP has incorporated comments into a copy of the USFWS February 4, 2008 letter and it can be found in Appendix A.

A public notice will be published in the *El Paso Times* in English and a Spanish translated version in *El Diario* once the FONSI is signed and the EA becomes final.

1.4.2 Agency Coordination

Early coordination and consultation has occurred during preparation of this document. This process began in June 2007 through the issuance of coordination letters to interested Federal, State, and local agencies and interested Indian tribes, inviting their participation and input regarding this proposed project. The list below includes contacts that were made during the development of alternatives and writing of the EA. Copies of correspondence generated during the preparation of this EA are presented in Appendix A.

Formal and informal coordination has been conducted with the following agencies, among others:

- USFWS;
- U.S. Environmental Protection Agency (USEPA);
- U.S. Department of Agriculture, Natural Resources Conservation Service (USDA, NRCS);
- Texas Parks and Wildlife Department (TPWD);
- Texas Historical Commission (THC);
- Texas Commission on Environmental Quality (TCEQ);
- Texas SHPO;
- Texas Department of Transportation (TxDOT); and
- U.S. Section, International Boundary and Water Commission (USIBWC).

1.5 COOPERATING AGENCIES

U.S. Department of the Interior (DOI) is a cooperating agency on all SBI projects including the *SBI_{net}* proposed project included in this EA. A Memorandum of Agreement (MOA) was established between DOI and CBP on January 18, 2008. A copy of the MOA is included in Appendix A.

1.6 FRAMEWORK FOR ANALYSIS

NEPA is a Federal statute requiring the identification and analysis of potential environmental impacts of proposed Federal actions before those actions are taken. CEQ regulations (40 CFR 1500) mandate that all Federal agencies use a systematic interdisciplinary approach to environmental planning and the evaluation of actions that might affect the environment. This process evaluates potential environmental consequences associated with a proposed action and considers alternative courses of action. The intent of NEPA is to protect, restore, or enhance the environment through well-informed Federal decisions.

The process for implementing NEPA is codified in 40 CFR 1500-1508, *Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act*, and DHS's Management Directive 5100.1, Environmental Planning Program. CEQ was established under NEPA to implement and oversee Federal policy in this process. CEQ regulations specify that the following must be accomplished when preparing an EA:

- Briefly provide evidence and analysis for determining whether to prepare an Environmental Impact Statement (EIS) or a FONSI;
- Aid in an agency's compliance with NEPA when an EIS is unnecessary; and,
- Facilitate preparation of an EIS when one is necessary.

In addition to NEPA, other authorities have been addressed during the preparation of this EA include IIRIRA, Clean Air Act (CAA), Clean Water Act (CWA) (including a National Pollutant Discharge Elimination System [NPDES] stormwater discharge

permit), Noise Control Act, Endangered Species Act (ESA), National Historic Preservation Act (NHPA), Archaeological Resources Protection Act, Resource Conservation and Recovery Act, and the Toxic Substances Control Act. Executive Orders (EO) bearing on the proposed action include EO 11988 (Floodplain Management), EO 11990 (Protection of Wetlands), EO 12088 (Federal Compliance with Pollution Control Standards, as amended by EO 13423), EO 12580 (Superfund Implementation, as amended by 13308), EO 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, as amended by EO 12948), EO 13045 (Protection of Children from Environmental Health Risks and Safety Risks, as amended by EO 13229), EO 13175 (Consultation and Coordination with Indian Tribal Governments), EO 13186 (Responsibilities of Federal Agencies to Protect Migratory Birds), and EO 13423 (Strengthening Federal Environmental, Energy, and Transportation Management). According to CEQ regulations, the requirements of NEPA must be integrated “with other planning and environmental review procedures required by law or by agency so that all such procedures run concurrently rather than consecutively.”

1.6.1 Alternatives and Alternatives Selection

As the proponent agency preparing this EA, CBP is required to develop a range of alternatives that could reasonably achieve the need that this proposed action intends to address. Since the need for this action is mandated in part by the above-described statutes which aim to secure U.S. borders from illegal incursions and illegal cross-border activities by installation of camera and sensor technologies, the alternatives for this proposed action are limited to SBInet’s discretionary selection of site locations for the operational components of the project. Within the framework of the various Congressional mandates to secure U.S. borders, as specifically described in legislation, project component site locations are the only reasonable alternatives available for evaluation under this proposed action. Consideration of alternatives was, therefore, restricted to selection of sites for project components, namely communications and surveillance tower types and locations that would achieve maximum system operability while minimizing potential environmental impacts and obstacles to constructability.

1.6.2 Tower Locations and the Siting Process

The communications and surveillance tower siting process identifies potentially suitable site locations and their alternatives. Key site evaluation considerations take into account constructability, operability, and environmental factors. The siting process begins with a preliminary, conceptual laydown, where proposed tower sites are first established using mapping programs and a modeling and analysis process. These preliminary site locations are chosen by CBP personnel based on their knowledge of the terrain, environment, land ownership, and operations. This results in the production of a baseline tower laydown scheme.

The site selection team also employs a Wide Area Surveillance Sensor Placement Tool (WASSPT) which is a four-stage, integrated analysis, and visualization tool for cost-effective placement of towers across areas of interest. The WASSPT helps to determine the minimum number of towers needed for maximum coverage of a given area. These initial tower siting efforts precede environmental site evaluation that occurs during preliminary and detailed site visits and surveys.

After a preliminary, conceptual laydown of prospective tower sites is agreed to by CBP, the project's environmental, construction, and operational personnel conduct site visits and complete site visit reports. During site visits, project team personnel use site ranking criteria to establish whether sites exhibit exclusionary, restrictive, and/or selective characteristics from constructability, operability, and/or environmental criteria perspectives.

Based on the preliminary, conceptual laydown, a total of 28 tower locations were evaluated, but later rejected, due to operational, technical, constructability, or environmental constraints or issues. The preliminary, conceptual site visits occurred in June 2007, and the sites are summarized in Table 1-1. The reasons for their elimination as proposed tower sites are provided in the table below. The site visit teams completed a tower site checklist for each site location to evaluate the most suitable

tower locations. All applicable criteria identified during the site visits were incorporated to evaluate and establish preferred sites.

Table 1-1. Alternate Sites Proposed but Rejected

Tower ID	Station	Reason for Rejection*	Comment
EPT-YST-111	Ysleta	E	Site is in residential development
EPT-YST-103	Ysleta	O	Site too close to border
EPT-YST-102	Ysleta	O,T	Site viewshed issues
EPT-YST-101	Ysleta	O	Site too close to border
EPT-YST-054	Ysleta	O, T, E	Site viewshed issues and house near tower footprint
EPT-FBN-100	Fabens	C	Site landowner issues
EPT-FBN-099	Fabens	T,C	Site needs intensive soil preparation and property lease cost issues
EPT-FBN-098	Fabens	T,C	Site needs intensive soil preparation and property lease cost issues
EPT-FBN-097	Fabens	O	Site too close to border
EPT-FBN-096	Fabens	T,C	Site too close to Interstate 10
EPT-FBN-095	Fabens	C	Site removed due to access road and property issues
EPT-FBN-063	Fabens	T,C	Site needs intensive soil preparation and property lease cost issues
EPT-FBN-057	Fabens	C	Site removed due to access road and property issues
EPT-FBN-056	Fabens	T,C	Site needs intensive soil preparation and property lease cost issues
EPT-FHT-094	Fort Hancock	T,C	Site duplicate
EPT-FHT-093	Fort Hancock	T,C	Site not actually tower site but a property entryway
EPT-FHT-092	Fort Hancock	E	Site contained possible habitat for an endangered species
EPT-FHT-091	Fort Hancock	C	Site landowner issues
EPT-FHT-090	Fort Hancock	O, T, C, E	Site was removed due to no nearby commercial power and poor viewshed
EPT-FHT-089	Fort Hancock	O, T, C	Site was original proposed site but was actually within existing roadway
EPT-FHT-088	Fort Hancock	T,C	Site not actually tower site but a proposed tower entryway
EPT-FHT-087	Fort Hancock	O,T,C,E	Site was removed due to low elevations and poor viewshed
EPT-FHT-086	Fort Hancock	O,T	Site viewshed issues
EPT-FHT-085	Fort Hancock	O,T,	Site was removed due to viewshed issues and station geographical issues
EPT-FHT-067	Fort Hancock	T,C	Site duplicate
EPT-FHT-062	Fort Hancock	C	Existing ROE for nearby site therefore site removed
EPT-FHT-061	Fort Hancock	C	Site removed due to access road and property issues
EPT-FHT-060	Fort Hancock	C	Existing ROE for nearby site therefore site removed

* O—operational, T—technical, C—constructability, E—environmental

Exclusionary criteria consider environmental, construction, and operational constraints that could eliminate a site from consideration as a tower location for the SBInet system

supporting each sector's operations. Sites with exclusionary criteria generally require significant mitigation (cost and time prohibitive, making mitigations "unavailable" for a site to be suitable) and are generally eliminated from further consideration as potential sites.

Restrictive criteria also consider environmental, construction, and operational constraints that could restrict but not eliminate a site from consideration. Restrictive criteria characterize sites that may require potentially extensive mitigation to offset potentially significant impacts. Such mitigations would not be cost or time prohibitive.

Selective criteria provide either positive or negative site-specific considerations that form the basis for comparison of alternative sites. These criteria require little to no mitigation to make a site suitable for use.

All applicable criteria identified during the site visits were incorporated to evaluate and establish preferred sites based on the criteria under the constructability, operability, and environmental perspectives along with evaluation of other technology implementation criteria. The teams completed a tower site checklist for each site location to better enable evaluation of the most suitable tower locations.

Alternatives were selected from the field site visit process and personnel responsible for data gathering during site visits examined various project-related criteria under the three factors that were associated with each site. Criteria under each of the tower's three factors were ranked to determine whether any site characteristics presented criteria which would exclude a tower site from further consideration as a site alternative. Some criteria were only restrictive, meaning that the site's characteristics could be problematic and require mitigations to make the site suitable, but were not egregious enough to eliminate the site from further consideration. Selective site criteria are preferable site characteristics that would make a site most suitable for tower placement. Sites with the most selective criteria would make a site most preferable for siting a tower facility.

To ensure cultural and environmental compliance and to better characterize the preferred and alternate new tower sites, a series of surveys and investigations were performed to satisfy NEPA regulations. From September to November of 2007, Ecological Communications Corporation (EComm) conducted eight Phase I Environmental Site Assessments, 13 natural resource surveys, and 22 archaeological surveys (EComm 2007 a,b,c). The natural resources survey report can be found in its entirety in Appendix E.

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