

**FOR FURTHER INFORMATION CONTACT:** Ken Hunt, Executive Director, 245 Murray Lane, Mail Stop 0550, Washington, DC 20528, 703-235-0780 and 703-235-0442, [privacycommittee@dhs.gov](mailto:privacycommittee@dhs.gov).

**Purpose and Objective:** Under the authority of 6 U.S.C. section 451, this charter establishes the Data Privacy and Integrity Advisory Committee, which shall operate in accordance with the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C. App).

The Committee will provide advice at the request of the Secretary of DHS and the Chief Privacy Officer of DHS on programmatic, policy, operational, administrative, and technological issues within the DHS that relate to personally identifiable information (PII), as well as data integrity and other privacy-related matters.

**Duration:** The committee's charter is effective March 25, 2008, and expires March 25, 2010.

**Responsible DHS Officials:** Hugo Teufel III, Chief Privacy Officer and Ken Hunt, Executive Director, 245 Murray Drive, Mail Stop 0550, Washington, DC 20528, [privacycommittee@dhs.gov](mailto:privacycommittee@dhs.gov), 703-235-0780.

Dated: April 1, 2008.

**Hugo Teufel III,**

*Chief Privacy Officer.*

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## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

#### Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended

**AGENCY:** Office of the Secretary, Department of Homeland Security.

**ACTION:** Notice of determination; correction.

**SUMMARY:** The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border of the United States. The notice of determination was published in the **Federal Register** on April 3, 2008. Due to a publication error, the Project Area description was inadvertently omitted from the April 3 publication. For clarification purposes, this document is a republication of the April 3 document including the omitted Project Area description.

**DATES:** This Notice is effective on April 8, 2008.

#### Determination and Waiver

The Department of Homeland Security has a mandate to achieve and maintain operational control of the borders of the United States. Public Law 109-367, 2, 120 Stat. 2638, 8 U.S.C. 1701 note. Congress has provided the Secretary of Homeland Security with a number of authorities necessary to accomplish this mandate. One of these authorities is found at section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"). Public Law 104-208, Div. C, 110 Stat. 3009-546, 3009-554 (Sept. 30, 1996) (8 U.S.C 1103 note), as amended by the REAL ID Act of 2005, Public Law 109-13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109-367, 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110-161, Div. E, Title V, 564, 121 Stat. 2090 (Dec. 26, 2007). In Section 102(a) of the IIRIRA, Congress provided that the Secretary of Homeland Security 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) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United States. In Section 102(b) of the IIRIRA, Congress has called for the installation of fencing, barriers, roads, lighting, cameras, and sensors on not less than 700 miles of the southwest border, including priority miles of fencing that must be completed by December of 2008. Finally, in section 102(c) of the IIRIRA, Congress granted to me the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of the IIRIRA.

I determine that the following area of Hidalgo County, Texas, in the vicinity of the United States border, hereinafter the Project Area, is an area of high illegal entry:

- Starting approximately at the intersection of Military Road and an unnamed road (i.e. beginning at the western end of the International Boundary Waters Commission (IBWC) levee in Hidalgo County) and runs east in proximity to the IBWC levee for approximately 4.5 miles.
- Starting approximately at the intersection of Levee Road and 5494 Wing Road and runs east in proximity

to the IBWC levee for approximately 1.8 miles.

- Starting approximately 0.2 mile north from the intersection of S. Depot Road and 23rd Street and runs south in proximity to the IBWC levee to the Hidalgo POE and then east in proximity to the new proposed IBWC levee and the existing IBWC levee to approximately South 15th Street for a total length of approximately 4.0 miles.

- Starting adjacent to Levee Road and approximately 0.1 miles east of the intersection of Levee Road and Valley View Road and runs east in proximity to the IBWC levee for approximately 1.0 mile then crosses the Irrigation District Hidalgo County #1 Canal and will tie into the future New Donna POE fence.

- Starting approximately 0.1 mile east of the intersection of County Road 556 and County Road 1554 and runs east in proximity to the IBWC levee for approximately 3.4 miles.

- Starting approximately 0.1 mile east of the Bensten Groves road and runs east in proximity to the IBWC levee to the Progreso POE for approximately 3.4 miles.

- Starting approximately at the Progreso POE and runs east in proximity to the IBWC levee for approximately 2.5 miles.

In order to deter illegal crossings in the Project Area, there is presently a need to construct fixed and mobile barriers and roads in conjunction with improvements to an existing levee system in the vicinity of the border of the United States as a joint effort with Hidalgo County, Texas. In order to ensure the expeditious construction of the barriers and roads that Congress prescribed in the IIRIRA in the Project Area, which is an area of high illegal entry into the United States, I have determined that it is necessary that I exercise the authority that is vested in me by section 102(c) of the IIRIRA as amended. Accordingly, I hereby waive in their entirety, with respect to the construction of roads and fixed and mobile barriers (including, but not limited to, accessing the project area, creating and using staging areas, the conduct of earthwork, excavation, fill, and site preparation, and installation and upkeep of fences, roads, supporting elements, drainage, erosion controls, safety features, surveillance, communication, and detection equipment of all types, radar and radio towers, and lighting) in the Project Area, all federal, state, or other laws, regulations and legal requirements of, deriving from, or related to the subject of, the following laws, as amended: The National Environmental Policy Act (Pub. L. 91-190, 83 Stat. 852 (Jan. 1,

1970) (42 U.S.C. 4321 *et seq.*), the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884) (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*), the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) (33 U.S.C. 1251 *et seq.*), the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915 (Oct. 15, 1966) (16 U.S.C. 470 *et seq.*), the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*), the Clean Air Act (42 U.S.C. 7401 *et seq.*), the Archeological Resources Protection Act (Pub. L. 96–95, 16 U.S.C. 470aa *et seq.*), the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*), the Noise Control Act (42 U.S.C. 4901 *et seq.*), the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*), the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*), the Archaeological and Historic Preservation Act (Pub. L. 86–523, 16 U.S.C. 469 *et seq.*), the Antiquities Act (16 U.S.C. 431 *et seq.*), the Historic Sites, Buildings, and Antiquities Act (16 U.S.C. 461 *et seq.*), the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*), the Coastal Zone Management Act (Pub. L. 92–583, 16 U.S.C. 1451 *et seq.*), the Federal Land Policy and Management Act (Pub. L. 94–579, 43 U.S.C. 1701 *et seq.*), the National Wildlife Refuge System Administration Act (Pub. L. 89–669, 16 U.S.C. 668dd–668ee), the Fish and Wildlife Act of 1956 (Pub. L. 84–1024, 16 U.S.C. 742a, *et seq.*), the Fish and Wildlife Coordination Act (Pub. L. 73–121, 16 U.S.C. 661 *et seq.*), the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), the Rivers and Harbors Act of 1899 (33 U.S.C. 403), the Eagle Protection Act (16 U.S.C. 668 *et seq.*), the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*), the American Indian Religious Freedom Act (42 U.S.C. 1996), the Religious Freedom Restoration Act (42 U.S.C. 2000bb), and the Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. 6303–05).

I reserve the authority to make further waivers from time to time as I may determine to be necessary to accomplish the provisions of section 102 of the IIRIRA, as amended.

**Michael Chertoff,**

Secretary.

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**DEPARTMENT OF HOMELAND SECURITY**

**Office of the Secretary**

**Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as Amended**

**AGENCY:** Office of the Secretary, Department of Homeland Security.

**ACTION:** Notice of determination; correction.

**SUMMARY:** The Secretary of Homeland Security has determined, pursuant to law, that it is necessary to waive certain laws, regulations and other legal requirements in order to ensure the expeditious construction of barriers and roads in the vicinity of the international land border of the United States. The notice of determination was published in the **Federal Register** on April 3, 2008. Due to a publication error, the description of the Project Areas was inadvertently omitted from the April 3 publication. For clarification purposes, this document is a republication of the April 3 document including the omitted description of the Project Areas.

**DATES:** This Notice is effective on April 8, 2008.

**Determination and Waiver**

I have a mandate to achieve and maintain operational control of the borders of the United States. Public Law 109–367, 2, 120 Stat. 2638, 8 U.S.C. 1701 note. Congress has provided me with a number of authorities necessary to accomplish this mandate. One of these authorities is found at section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”). Public Law 104–208, Div. C, 110 Stat. 3009–546, 3009–554 (Sept. 30, 1996) (8 U.S.C. 1103 note), as amended by the REAL ID Act of 2005, Public Law 109–13, Div. B, 119 Stat. 231, 302, 306 (May 11, 2005) (8 U.S.C. 1103 note), as amended by the Secure Fence Act of 2006, Public Law 109–367, 3, 120 Stat. 2638 (Oct. 26, 2006) (8 U.S.C. 1103 note), as amended by the Department of Homeland Security Appropriations Act, 2008, Public Law 110–161, Div. E, Title V, 564, 121 Stat. 2090 (Dec. 26, 2007). In Section 102(a) of IIRIRA, Congress provided that the Secretary of Homeland Security 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) in the vicinity of the United States border to deter illegal crossings in areas of high illegal entry into the United

States. In Section 102(b) of IIRIRA, Congress has called for the installation of fencing, barriers, roads, lighting, cameras, and sensors on not less than 700 miles of the southwest border, including priority miles of fencing that must be completed by December 2008. Finally, in section 102(c) of the IIRIRA, Congress granted to me the authority to waive all legal requirements that I, in my sole discretion, determine necessary to ensure the expeditious construction of barriers and roads authorized by section 102 of IIRIRA.

I determine that the following areas in the vicinity of the United States border, located in the States of California, Arizona, New Mexico, and Texas are areas of high illegal entry (collectively “Project Areas”):

**California**

- Starting approximately 1.5 mile east of Border Monument (BM) 251 and ends approximately at BM 250.
- Starting approximately 1.1 miles west of BM 245 and runs east for approximately 0.8 mile.
- Starting approximately 0.2 mile west of BM 243 and runs east along the border for approximately 0.5 mile.
- Starting approximately 0.7 mile east of BM 243 and runs east along the border for approximately 0.9 mile.
- Starting approximately 1.0 mile east of BM 243 and runs east along the border for approximately 0.9 mile.
- Starting approximately 0.7 mile west of BM 242 and stops approximately 0.4 mile west of BM 242.
- Starting approximately 0.8 mile east of BM 242 and runs east along the border for approximately 1.1 miles.
- Starting approximately 0.4 mile east of BM 239 and runs east for approximately 0.4 mile along the border.
- Starting approximately 1.2 miles east of BM 239 and runs east for approximately 0.2 mile along the border.
- Starting approximately 0.5 mile west of BM 235 and runs east along the border for approximately 1.1 miles.
- Starting approximately 0.8 mile east of BM 235 and runs east along the border for approximately 0.1 mile.
- Starting approximately 0.6 mile east of BM 234 and runs east for approximately 1.7 miles along the border.
- Starting approximately 0.4 mile east of BM 233 and runs east for approximately 2.1 miles along the border.
- Starting approximately 0.05 mile west of BM 232 and runs east for approximately 0.1 mile along the border.