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In Reply Refer To:
AESO/SE
22410-2008-F-0011

February 11, 2008

Mr. George Hutchinson
U.S. Department of Homeland Security
Customs and Border Protection
1300 Pennsylvania Avenue NW
Room 3.4-D
Washington, D.C. 20229

RE: Biological Opinion for the Proposed Installation of 5.2 Miles of Primary Fence near
Lukeville, Arizona

Dear Mr. Hutchinson:

Thank you for your request for formal consultation with the U.S. Fish and Wildlife Service (FWS) pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), as amended (Act). You requested initiation of formal consultation on September 17, 2007. At issue are impacts that may result from your proposed primary fence project on Organ Pipe Cactus National Monument in Pima County, Arizona. The proposed action may affect Sonoran pronghorn (*Antilocapra americana sonoriensis*) and lesser long-nosed bats (*Leptonycteris curasoae yerbabuena*).

This biological opinion is based on information provided in the "Final Environmental Assessment for the Proposed Installation of 5.2 Miles of Primary Fence near Lukeville, Arizona - U.S. Border Patrol, Tucson Sector, November 2007" (EA) and other sources of information as described in the consultation history. Literature cited in this biological opinion is not a complete bibliography of all literature available on the species of concern; primary fence installation and maintenance activities and their effects; road improvement and maintenance activities and their effects; or on other subjects considered in this opinion. A complete administrative record of this consultation is on file at the Phoenix, Arizona, Ecological Services Office (AESO).

CONSULTATION HISTORY

- June 11, 2007: We received your¹ June 4, 2007, request for information on threatened or endangered species, or those that are proposed to be listed as such under the Endangered Species Act of 1973, as amended (Act), which may occur in your proposed project area.
- July 10, 2007: We sent you a letter that included the aforementioned information you requested as well as other recommendations to consider during the preparation of your Environmental Assessment for the project.
- September 17, 2007: We received your “Draft Environmental Assessment for the Proposed Installation of 5.2 Miles of Primary Fence near Lukeville, Arizona - U.S. Border Patrol, Tucson Sector, September 2007” and August 14, 2007, letter requesting our concurrence that the Installation of 5.2 Miles of Primary Fence near Lukeville, Border Patrol (BP) Tucson Sector Project, Pima County, Arizona (proposed project), may affect, but is not likely to adversely affect, the federally endangered lesser long-nosed bat and will have no effect on the endangered Sonoran pronghorn.
- October 9, 2007: We held a conference call with Chris Ingram and Josh McEnany of Gulf South Research Corporation (GSRC) to discuss the project’s effects on the Sonoran pronghorn and lesser long-nosed bat. During the call, GSRC revised the determination and concluded that the project may result in adverse effects to both species and that formal section 7 consultation is warranted.
- October 12, 2007: We received your electronic mail confirming the aforementioned revision.
- October 19, 2007: We sent you a letter initiating formal consultation. This letter also included a request for information needed to complete our Biological Opinion.
- December 3, 2007: We received an electronic mail from GSRC with the Final EA attached.
- December 19, 2007: We received your electronic mail inquiring about the status of our Draft BO and informing us that the Final EA was submitted to our office. In a separate electronic mail you stated that the Final EA addressed all requests in our October 19, 2007, letter. We sent you an electronic mail stating that the Final EA did not address all of our requests, but that it contained enough information to start working on the Biological Opinion. A conference call was scheduled for January 8, 2008, to discuss outstanding information needs.
- January 8 to February 5, 2007: We had numerous conference calls to discuss outstanding concerns and information needs regarding your project. During these calls we agreed to a

¹ For the purposes of this biological opinion, “your” and “you” means either Customs and Border Protection or the Army Corps of Engineers.

number of conservation measures that are now incorporated into the “Description of the Proposed Action” of this biological opinion.

- February 6, 2008: We received your electronic mail providing the conservation measures that CBP will implement as part of this project.
- February 6, 2008: We sent you our draft biological opinion for the project.
- February 8, 2008: We received your electronic mail with comments on the draft biological opinion.

BIOLOGICAL OPINION

DESCRIPTION OF PROPOSED ACTION

U.S. Customs and Border Protection (CBP) and U.S. Border Patrol (USBP) propose to construct and maintain 5.2 miles of primary fence along the U.S.-Mexico border near Lukeville, Arizona to help agents and officers gain effective control of the border. The proposed action, summarized below, is described in detail in the “Final Environmental Assessment for the Proposed Installation of 5.2 Miles of Primary Fence near Lukeville, Arizona - U.S. Border Patrol, Tucson Sector, November 2007” (EA), as well as electronic mail correspondence from Army Corps of Engineers (ACOE) and GSRC to FWS, and notes from conference calls with CBP, ACOE, and GSRC. The project corridor (Figure 1) is within the Organ Pipe Cactus National Monument (OPCNM) and encompasses 5.2 linear miles of the U.S. - Mexico border, including 3.1 miles to the east and 2.1 miles to the west of the Lukeville Port of Entry (POE); the project area is described in the Final EA.

Approximately 4.55 miles of primary fence will be installed approximately 6 feet north of the U.S.-Mexico border on either side of the Lukeville POE and 3 feet north of the existing Permanent Vehicle Barriers (PVBs). Approximately 0.65 mile of primary fence over Sonoyta Hill (also known as Monument Hill) will be installed 3 feet north of the U.S.-Mexico border. Construction activities associated with the installation of 4.55 miles of fence will occur entirely within the 60-foot Roosevelt Reservation² (RR); construction of the 0.65 mile of fence will require a footprint of 150 feet, 90 feet beyond the RR.

The fence will be made of 9-gauge mesh and though the final design will be developed by the design/build contractor, at a minimum, it must extend 15 feet above ground and three to six feet

² The 60-foot wide Roosevelt Reservation along the border was set aside from public use, with the exception of public highways, as a protection against the smuggling of goods between the U.S. and Mexico by Presidential Proclamation in 1907 by President Theodore Roosevelt. The Roosevelt Reservation includes all lands under Federal ownership in California, Arizona and New Mexico at the time the proclamation was signed, creating a formal border enforcement zone between the U.S. and Mexico (International Boundary Commission 1936).

below ground; not impede the natural flow of water; and result only in minimal impacts on small animal movements (see EA for a complete list of minimum fence requirements). Furthermore, in most washes or arroyos, the fence will be designed and constructed to ensure proper conveyance of floodwaters and to eliminate the potential to cause backwater flooding on either side of the U.S.-Mexico border. During rain events the USBP will be responsible for ensuring that debris does not become wedged against the fence creating backwater flooding.

An existing patrol road that parallels the border for 4.55 miles of the project corridor will be used for access during construction and subsequent maintenance of most of the fence (no improvement to this portion of the road is proposed). To install and maintain primary fence over Sonoyta Hill, west of the Lukeville POE, a new road will be constructed. The existing South Puerto Blanco Road will be used for construction access and maintenance of the Sonoyta Hill portion of the fence. Staging areas and turnarounds for the project will be located in previously disturbed areas, within the RR, to minimize potential effects to the environment. Between 5.2 and 11.4 acre-feet (1.7 to 3.7 million gallons) of water for fence and road construction-related activities will be required. All water will be trucked into the project site from sources north of the OPCNM (i.e., Why, Ajo, or Gila Bend).

A total of about 45 acres (12 acres within the 150-foot wide footprint [this represents 5 acres within the RR and 7 acres outside of the RR] and 33 acres within the 60-foot wide footprint) will be permanently disturbed. About 17 acres of the total footprint have been previously disturbed from the construction of the existing PVBs. Within the project footprint, up to 206 saguaros and 295 organ pipe cacti will be removed or salvaged (85 percent of these occur within the 0.65-mile project corridor over Sonoyta Hill).

The road and fence will be maintained by the USBP on an as-needed basis to ensure the integrity of the road and fence is not compromised. All project personnel will not exceed a speed limit of 25 miles per hour within OPCNM during construction and maintenance related activities (excluding travel on Highway 85). The number of vehicles traveling to and from the project site and the number of trips per day will be minimized to reduce the likelihood of disturbing pronghorn in the area or injuring an animal on the road. The project is expected to be completed by December 2008. Nighttime construction is not anticipated, however, it may occur.

CBP anticipates that the fence will facilitate increased border control within the 5.2-mile project corridor. Therefore, the enforcement resources once used for security in that area will be more available to respond to illegal activity on either side of the fence. Furthermore, CBP aims to interdict illegal activity as close to the border as possible.

Conservation Measures

To reduce impacts to the environment, CBP and their representatives (i.e., ACOE, contractors, and consultants) will implement a number of Environmental Design and Conservation Measures,

including: 1) demarcate the project area to be impacted before construction begins; 2) implement a Stormwater Pollution Prevention Plan (SWPPP), including pre- and post-construction Best Management Practices (BMPs) identified in the SWPPP; 3) implement erosion control techniques; 4) construct the fence in arroyos in a way that ensures proper conveyance of floodwaters and that eliminates the potential for backwater flooding on either side of the U.S.-Mexico border; 5) remove debris from the fence immediately after rain events to ensure that no backwater flooding occurs; 6) comply with the Migratory Bird Treaty Act; 7) check all construction-related holes and trenches on a daily-basis and immediately remove and relocate all animals that have fallen in the holes and trenches away from the site (>100 feet) (checking may be done by anyone on-site; however, removal of animals will be done by a qualified biologist); and 8) clean construction equipment prior to entering OPCNM to minimize the spread and establishment of non-native and invasive species. A biological monitor will be on-site daily to ensure project compliance (i.e., ensure contractors are staying within the demarcated impact area; move animals, such as desert tortoise, out of the project corridor; etc.). When contractors are working on the western slope of Sonoyta Hill, the biological monitor will conduct surveys for Sonoran pronghorn as close to dawn as possible. If Sonoran pronghorn are detected within 0.62 mile of project activities, no project work will begin until pronghorn move on their own volition to a distance greater than 0.62 mile from the activities. All contractors, work crews (including National Guard and military personnel), and CBP personnel in the field performing construction and maintenance activities would receive training on the habitat and habits of species found in the project area, including information on how to avoid impacts to the species from their activities.

To help offset impacts to lesser long-nosed bat foraging habitat and other natural resources, CBP and their representatives will (or provide funding for): 1) in close coordination with OPCNM, salvage all columnar cacti less than three feet tall to the extent practicable (approximately 74 saguaro and 68 organ pipe cacti³) and attempt to salvage columnar cacti between three and six feet (approximately 41 saguaro and 55 organ pipe cacti³) that face danger of destruction within the project corridor as determined by the biological monitor and that have been identified using GPS-technology (either by GSRC or OPCNM), as well as about 20 barrel cacti; 2) transport the salvaged cacti to an area, likely the OPCNM nursery, where they will be temporarily planted in prepared beds; 3) care for them until they are ready to be replanted; and 4) replant (water and monitor) them in areas to be restored within OPCNM (as identified in the restoration plan-see below). The contractor responsible for constructing the fence will also be responsible for cactus salvage and transportation, as well as care until funds become available through the programmatic mitigation agreement (explained below). Non-salvageable plants destroyed in the project corridor and not needed for on-site erosion control or restoration, as determined by an erosion-control/restoration specialist and OPCNM staff, will be hauled away to an appropriate disposal site outside of OPCNM.

³ During a recent survey (February 2008), OPCNM staff counted a total of 140 salvageable saguaros and 112 salvageable organ pipe cacti. These numbers differ from those provided by GSRC; however, regardless of the exact number, all saguaros and organ pipe determined to be salvageable within the project footprint will be salvaged.

To help offset impacts to lesser long-nosed bats, Sonoran pronghorn, and other natural resources CBP will provide funding in the amount of \$955,000.00⁴ to restore 84 acres (to be identified by OPCNM personnel) within OPCNM, including illegal roads and trails within the Monument. We anticipate that about 60 percent of the restoration will benefit the conservation of the lesser long-nosed bat and about 40 percent will benefit the Sonoran pronghorn. A restoration plan will be developed and implemented by a qualified Sonoran Desert restoration specialist, in close coordination with OPCNM. Development of the plan will be the responsibility of the fence contractor, however, implementation of it will be the responsibility of DOI. The plan will be completed within 6 months of the issuance of the biological opinion and, among other components, will include replanting, watering as needed, and monitoring the success of salvaged cacti; eradication of non-native invasive species; and general maintenance and monitoring of the restoration areas for 5 years. No restoration will occur within the project footprint, as the area will be needed for future CBP operations; however, non-native invasive plants will be monitored and controlled in the area for three years.

To aid in the conservation and recovery of pronghorn and to help offset potential impacts to pronghorn that may occur as a result of this project, the CBP will provide funding to the FWS to fill a Sonoran pronghorn water for 10 years at a cost per year of \$2,500.00 (for a total of \$25,000).

The aforementioned funding (\$955,000 and \$25,000) will be incorporated within a programmatic mitigation agreement between Department of Homeland Security/CBP and Department of the Interior (DOI)/FWS. Once funding is provided to DOI through this agreement, DOI will be responsible for implementing the restoration plan and filling the Sonoran pronghorn water.

SONORAN PRONGHORN STATUS OF THE SPECIES

A. Description, Legal Status, and Recovery Planning

The Sonoran subspecies of pronghorn (*Antilocapra americana sonoriensis*) was first described by Goldman (1945) and is the smallest of the five subspecies of pronghorn (Nowak and Paradiso 1983). The subspecies was listed throughout its range as endangered on March 11, 1967 (32 FR 4001) under the Endangered Species Preservation Act of October 15, 1966 without critical habitat. Three sub-populations of the Sonoran pronghorn are extant: 1) a U.S. sub-population in southwestern Arizona, 2) a sub-population in the Pinacate Region of northwestern Sonora, and 3) a sub-population on the Gulf of California west and north of Caborca, Sonora. The three sub-

⁴ These funds will also be used to pay for the care of salvaged cactus at the temporary holding facility until they are ready to be replanted. If the salvage occurs before the funds are available, the salvaged cactus will be cared for by CBP or their representatives until the funds become available.

populations are geographically isolated due to barriers such as roads and fences, and in the case of the two Sonora sub-populations, by distance.

The 1982 Sonoran Pronghorn Recovery Plan (U.S. Fish and Wildlife Service 1982) was revised in 1998 (U.S. Fish and Wildlife Service 1998). The recovery criteria presented in the revised plan entailed the establishment of a population of 300 adult pronghorn in one self-sustaining population for a minimum of five years, as well as the establishment of at least one other self-sustaining population in the U.S. to reclassify the subspecies to threatened. Actions identified as necessary to achieve these goals include the following: 1) enhance present sub-populations of pronghorn by providing supplemental forage and/or water; 2) determine habitat needs and protect present range; 3) investigate and address potential barriers to expansion of presently used range and investigate, evaluate, and prioritize present and potential future reintroduction sites within historical range; 4) establish and monitor a new, separate herd(s) to guard against catastrophes decimating the core population, and investigate captive breeding; 5) continue monitoring sub-populations and maintain a protocol for a repeatable and comparable survey technique; and 6) examine additional specimen evidence available to assist in verification of taxonomic status. In 2001 a supplement and amendment to the 1998 Final Revised Sonoran Pronghorn Recovery Plan was prepared (U.S. Fish and Wildlife Service 2001). We concluded that data do not yet exist to support establishing delisting criteria. Tasks necessary to accomplish reclassification to threatened status (as outlined in the 1998 plan) should provide the information necessary to determine if and when delisting will be possible and what the criteria should be.

B. Life History and Habitat

Sonoran pronghorn inhabit one of the hottest and driest portions of the Sonoran Desert. They forage on a large variety of perennial and annual plant species (Hughes and Smith 1990, Hervert *et al.* 1997b, U.S. Fish and Wildlife Service 1998). During drought years, Hughes and Smith (1990) reported cacti were the major dietary component (44 percent). Consumption of cacti, especially chain fruit cholla (*Cylindropuntia fulgida*, Pinkava 1999), provides a source of water during hot, dry conditions (Hervert *et al.* 1997b). Other important plant species in the diet of the pronghorn include pigweed (*Amaranthus palmeri*), ragweed (*Ambrosia* sp.), locoweed (*Astragalus* sp.), brome (*Bromus* sp.), and snakeweed (*Gutierrezia sarothrae*) (U.S. Fish and Wildlife Service 1998). Pronghorn will move in response to spatial limitations in forage availability (Hervert *et al.* 1997a). Water intake from forage is not adequate to meet minimum water requirements (Fox *et al.* 2000), hence pronghorn need and readily use both natural and artificial water sources (Morgart *et al.* 2005).

Sonoran pronghorn rut during July-September, and does have been observed with newborn fawns from February through May. Parturition corresponds with annual spring forage abundance. Fawning areas have been documented in the Mohawk Dunes and the bajadas of the Sierra Pinta, Mohawk, Bates, Growler, and Puerto Blanco mountains. Does usually have twins, and fawns suckle for about 2 months. Does gather with fawns, and fawns sometimes form

nursery groups (U.S. Fish and Wildlife Service 1998). Sonoran pronghorn form small herds of up to 21 animals (Wright and deVos 1986).

Telemetry locations of 35 Sonoran pronghorn demonstrated that during 1995-2002, pronghorn used creosote/bursage and palo verde/mixed cactus vegetation associations less than expected or equal to availability. Pronghorn use of palo verde/chain fruit cholla associations and desert washes occurred more than expected. However, during the cool and wet winter on 1997-1998, pronghorn were found in creosote/bursage associations more than expected (Hervert *et al.* 2005). In contrast, during 1983-1991, pronghorn used creosote/bursage and palo verde mixed cacti associations more than expected (deVos and Miller 2005). Differences between these study results may be due in part to differences in precipitation and forage patterns between these periods. The earlier period was wetter with greater forage availability in flats and valleys where creosote/bursage associations predominate. In wet winters and early spring pronghorn are often found in flats and valleys, such as Pinta Sands, the Mohawk Dunes west of the Mohawk Mountains, and the west side of the Aguila Mountains. In late spring and summer, pronghorn then move from the flats and valleys upslope into bajadas and often south or southeast where palo verde associations, chain fruit cholla, and washes are more common. Movements are most likely motivated by the need for thermal cover provided by leguminous trees and water available in succulent chain fruit cholla (Hervert *et al.* 1997b). Home range size of Sonoran pronghorn during 1995-2002 ranged from 16.6 to 1,109 mi², with an average of 197 ± 257 mi² (Hervert *et al.* 2005).

From 1995-2002, adult mortality rates varied from 11-83%. Adults were killed by coyotes, bobcats, mountain lions, capturing efforts, drought, and unknown causes (Bright and Hervert 2005). However, during 1983-1991, apparently a more favorable period for pronghorn during which the population grew significantly, mean annual survival of females and males was $96\% \pm 0.04$ and $92\% \pm 0.04$ (DeVos and Miller 2005). Disease may affect mortality, but has not been thoroughly investigated (Bright and Hervert 2005). Hervert *et al.* (2000) found that the number of fawns surviving until the first summer rains was significantly correlated to the amount of preceding winter rainfall, and negatively correlated to the number of days without rain between the last winter rain and the first summer rain. Drought may be a major factor in the survival of adults and fawns (Bright and Hervert 2005). Three radio-collared pronghorn died in July and August of 2002 with no obvious cause of death. Given that 2002 was one of the driest years on record, the proximate cause of these mortalities was likely heat stress and/or malnutrition resulting from inadequate forage conditions due to drought.

C. Distribution and Abundance

United States

Historically, the Sonoran pronghorn ranged in the U.S. from approximately the Santa Cruz River in the east, to the Gila Bend and Kofa Mountains to the north, and to Imperial Valley, California, to the west (Mearns 1907, Nelson 1925, Monson 1968, Wright and deVos 1986, Paradiso and Nowak 1971; Figure 2). Bright *et al.* (2001) defined the present U.S. range of the Sonoran pronghorn as bordered by Interstate 8 to the north, the International Border to the south, the

Copper and Cabeza mountains to the west, and SR 85 to the east (see Figure 3). This area encompasses 2,508 mi² (Bright *et al.* 2001).

While Mearns (1907) suggested that pronghorn may have been common in some areas in the late 1800s, evidence suggests that the sub-population declined dramatically in the early 20th century. Sub-population estimates for Arizona, which only began in 1925, have never shown the pronghorn to be abundant (Table 1). Repeatable, systematic surveys were not conducted in Arizona until 1992. Since 1992, Sonoran pronghorn in the United States have been surveyed biennially (Bright *et al.* 1999, 2001) using aerial line transects (Johnson *et al.* 1991). Sub-population estimates from these transects have been derived using three different estimators (Table 2); currently the sightability model (Samuel and Pollock 1981) is considered the most reliable estimator (Bright *et al.* 1999, 2001). Table 2 presents observation data from transects and compares estimates derived from the three population models from 1992 through 2006.

The sightability model population estimates from 1992 to 2000 showed a 45 percent decrease in sub-population size (Table 2). The estimates indicate a steady decline in sub-population size, with the exception of the 1994 survey. The 1994 estimate may be somewhat inflated due to inconsistencies in survey timing (U.S. Fish and Wildlife Service 1998, Bright *et al.* 2001). High fawn mortality in 1995 and 1996 and the death of half (8 of 16) of the adult, radio-collared pronghorn during the 13 months preceding the December 1996 survey corresponded to five consecutive six-month seasons of below normal precipitation (summer 1994 through summer 1996) throughout most of the Sonoran pronghorn range, which likely contributed, in part, to observed mortality (Bright *et al.* 2001, Hervert *et al.* 1997b).

Mortality of Sonoran pronghorn in 2002 was exceptionally high (Bright and Hervert 2005). At the start of the year, seven radio-collared Sonoran pronghorn were at large in the U.S. sub-population. By December 2002, all but one of these had died. For most, drought stress was considered to be the proximate cause. For those animals that may have succumbed to predation, it was suspected that drought stress was again a factor, by making the animal more vulnerable to predation, due to an emaciated physical condition and being forced into predator habitats by drought. The 2002 drought was one of the driest on record. As an example, annual rainfall at the OPCNM visitor center was only 2.54 inches in 2002 (T. Tibbitts, Organ Pipe Cactus NM, pers. comm. 2002); *average* annual rainfall for the visitor center is 9.2 inches (Brown 1982). The November/December 2002 population survey revealed the U.S. sub-population had declined to the lowest level ever recorded. A total of 18 pronghorn were observed, in three groups (8, 9, and 1). The sightability model resulted in a population estimate of 21 animals, or a 79% decline from 2000. Also, very few fawns survived in 2002 to replace these dying adults.

Although drought was likely the proximate cause of the dramatic decline of the U.S. sub-population in 2002, anthropogenic factors almost certainly contributed to or exacerbated the effects of the drought. Historically, pronghorn likely moved to wetted areas and foraged along the Rio Sonoyta, Sonora, and the Gila and probably Colorado rivers during drought. These areas are no longer accessible to the U.S. population due to fences, Interstate 8, Mexico Highway 2, and other barriers. The rate of decline in the U.S. sub-population from 2000-2002 (79 percent)

was also much greater than that observed in either the sub-population southeast of Highway 8 (18 percent decline) or the El Pinacate sub-population (26 percent) during the same period (see discussion of Mexican sub-populations in the next section). Observations of forage availability suggest the El Pinacate sub-population experienced the same severe drought that occurred on the Arizona side (T. Tibbitts, J. Morgart, pers. comm. 2003). Yet that sub-population fared much better than its U.S. counterpart. The high level of human activities and disturbance on the U.S. side, particularly in regard to undocumented alien traffic, smugglers, and required law enforcement response, as compared to what occurs in the El Pinacate area, is a likely contributing factor in the differing rates of decline observed north and south of the border. See the section entitled “Drought” in the Environmental Baseline and “Cumulative Effects” for further discussion.

The December 2004 survey resulted in an estimated 58 wild pronghorn in the U.S. sub-population, a substantial increase brought on by favorable conditions since 2002. Based on casual surveys and estimated fawn survival, the population in 2005 was roughly 75 wild pronghorn. Based on a December 2006 aerial survey, the U.S. sub-population was estimated at 68 (Table 2). Based, again, on casual surveys as well as aerial tracking of ten telemetered pronghorn, the 2007 wild population is now estimated at about 70.

Semi-captive breeding facility

As part of a comprehensive emergency recovery program, adult pronghorn were first captured and placed into a semi-captive breeding facility at CPNWR in 2004. There are currently (as of January 2008) 37 pronghorn in the enclosure. Two yearling bucks were released from the pen into the wild herd in November 2006, and another two were released in January 2007. The objective is to produce 10-25 fawns each year to be released into the U.S. sub-population, and potentially to establish a second U.S. sub-population at Kofa NWR. Planning for the second herd is underway. Various alternatives are being considered, but a second herd could be established in King Valley of Kofa NWR within five years. A captive facility with a forage enhancement plot, and development of waters in King Valley would likely be needed. The population would probably be introduced as an experimental, nonessential population under section 10(j) of the Act.

Mexico

Historically, Sonoran pronghorn ranged in Sonora from the Arizona border south to Hermosillo and Kino Bay, west to at least the Sierra del Rosario, and east to the area south of the Baboquivari Valley on the Tohono O’odham Nation (Nelson 1925, Carr 1974, Monson 1968). The distribution in Baja California Norte is less clear, but observations by Mearns (1907) indicate they occurred in the Colorado Desert west of the Colorado River, as well. Sonoran pronghorn are currently extant in two sub-populations in Mexico, including: (1) Pinacate sub-population west of Highway 8 near the Pinacate Lava flow; and (2) north and west of Caborca and southeast of Highway 8.

Sub-populations of Sonoran pronghorn in Sonora had not been thoroughly surveyed until the December 2000 surveys (Bright *et al.* 2001), at which time 346 pronghorn were estimated to

occur in Sonora. Although the 1993 estimate was approximate, survey results suggested a decline in the sub-populations of 16 percent from 1993 to 2000 (Table 3). The two Mexico sub-populations were resurveyed in December 2002. A grand total (both El Pinacate and southeast of Highway 8) of 214 pronghorn in 32 groups were seen for a tentative population estimate of 280, indicating further decline. Only 19 pronghorn were observed in the Pinacate area for an estimate of 25, which is a decline of 26% from the 2000 estimate. Surveys conducted in December 2004 and February 2005 demonstrated that the population southeast of Highway 8 increased to 625 (439 observed), while the Pinacate population increased to 59 (30 observed). In January 2006, surveys indicated that pronghorn numbers are remaining steady with an estimated total of 634 (486 observed) individuals (combined for both populations). Nine of these were captured, of which five were fitted with radio-collars and released and four were transferred to the semi-captive breeding facility in the U.S.

Population Viability Analysis

In 1996, a workshop was held in which a population viability analysis (PVA) was conducted for the U.S. sub-population of Sonoran pronghorn (Defenders of Wildlife 1998). A PVA is a structured, systematic, and comprehensive examination of the interacting factors that place a population or species at risk (Gilpin and Soulé 1986). Based on the best estimates of demographic parameters at the time, the likelihood of extinction of Sonoran pronghorn was calculated as one percent in the next 25 years, nine percent in the next 50 years, and 23 percent in the next 100 years. More severe threats include population fluctuation, periodic decimation during drought (especially of fawns), small present population size, limited habitat preventing expansion to a more secure population size, and expected future inbreeding depression. At populations of less than 100, population viability declined at an increasingly steep rate. To maintain genetic diversity over the long term, a population of at least 500 is desirable (Defenders of Wildlife 1998). The likelihood of extinction increased markedly when fawn mortality exceeded 70 percent. Thus, a 30 percent fawn crop (30 fawns/100 does) each year is necessary to ensure the continuance of the U.S. sub-population. The authors concluded that “this population of the Sonoran pronghorn, the only one in the U.S., is at serious risk of extinction.” The authors made these conclusions prior to the severe drought and decline in the species in 2002. On the other hand, Hosack *et al.* (2002) found that some management actions were possible that could improve the chances of population persistence significantly. Actions that would ameliorate the effects of drought or minimize mortality of pronghorn were of particular importance for improving population persistence.

E. Threats

Barriers that Limit Distribution and Movement

Highways, fences, railroads, developed areas, and irrigation canals can block access to essential forage or water resources. Highways 2 and 8 in Sonora, and SR 85 between Gila Bend and Lukeville, Arizona support a considerable amount of fast-moving vehicular traffic, and are fenced in some areas, and are likely a substantial barrier to Sonoran pronghorn. Interstate 8, the Wellton-Mohawk Canal, agriculture, a railroad, and associated fences and human disturbance near the Gila River act as barriers for northward movement of pronghorn. De-watering of

reaches of the Río Sonoyta and lower Gila River, and barriers to pronghorn accessing the Gila River, such as Interstate 8 and the Wellton-Mohawk Canal, have caused significant loss of habitat and loss of access to water (Wright and deVos 1986). Agricultural, urban, and commercial development at Sonoyta, Puerto Peñasco, and San Luis Río Colorado, Sonora; in the Mexicali Valley, Baja California Norte; and at Ajo, Yuma, and along the Gila River, Arizona, have further removed habitat and created barriers to movement.

Human-caused Disturbance

A variety of human activities occur throughout the range of the pronghorn that have the potential to disturb pronghorn or its habitat, including livestock grazing in the U.S. and Mexico; military activities; recreation; poaching and hunting; clearing of desert scrub and planting of buffelgrass (*Pennisetum ciliare*) in Sonora; gold mining southeast of Sonoyta, dewatering and development along the Gila River and Río Sonoyta; increasing undocumented immigration and drug trafficking across the international border and associated required law enforcement response; and roads, fences, canals, and other artificial barriers.

Studies of captive pronghorn, other than the Sonoran subspecies, have shown that they are sensitive to disturbance such as human presence and vehicular noise. Human traffic, such as a person walking or running past pronghorn in an enclosed pen, a motorcycle driving past, a truck driving past, a truck blowing its horn while driving past, or a person entering a holding pen, caused an increased heart-rate response in American pronghorn in half-acre holding pens (Workman *et al.* 1992). The highest heart rates occurred in female pronghorn in response to a person entering a holding pen, or a truck driving past while sounding the horn. The lowest heart rates occurred when a motorcycle or truck was driven past their pen. Pronghorn were more sensitive to helicopters, particularly those flying at low levels or hovering, than fixed wing aircraft. Other investigators have shown that heart rate increases in response to auditory or visual disturbance in the absence of overt behavioral changes (Thompson *et al.* 1968, Cherkovich and Tatoyan 1973, Moen *et al.* 1978). Hughes and Smith (1990) found that pronghorn immediately ran 1,310-1,650 feet from a vehicle. Krausman *et al.* (2001, 2004, 2005a) examined effects of military aircraft and ground-based activities on Sonoran pronghorn at the North and South TACs on the Barry M. Goldwater Range (BMGR) and concluded that military activities, both ground-based and aerial, were associated with some changes in behavior (e.g., from standing to trotting or running, or bedded to standing) but the authors concluded that these changes were not likely to be detrimental to the animals. Sightings of pronghorn were biased towards disturbed habitats on the TACs and other areas of military activities, which also corresponded to areas of favorable ephemeral forage production (Krausman *et al.* 2005a). No conclusions could be drawn about effects of military activities on fawns due to poor fawn productivity during the Krausman *et al.* study. During times of drought, disturbances that cause pronghorns to startle and run would energetically have a more significant effect. Such energetic expenditures, particularly during times of stress, may lead to lower reproductive output and/or survival of individual animals (Geist 1971).

Habitat Disturbance

Livestock grazing has the potential to significantly alter pronghorn habitat and behavior (Leftwich and Simpson 1978, Kindschy *et al.* 1982, Yoakum *et al.* 1996). Overgrazing well into the 19th century by Spaniards and their descendants caused widespread habitat changes throughout much of the Sonoran Desert, particularly in more settled areas such as central Sonora, Mexico (Sheridan 2000). The effects of cattle grazing are largely historical; cattle were removed from OPCNM, CPNWR, and the BMGR in 1979, 1983, and 1986, respectively (U.S. Fish and Wildlife Service 1998, Rutman 1997). In 2004, the Bureau of Land Management (BLM) closed the Cameron Allotment on the borders of CPNWR and OPCNM, but grazing still occurs in the nearby Childs and Coyote Flat allotments near Ajo. In Sonora, livestock grazing occurs at Pozo Nuevo and at Ejido Puerto Peñasco, but cattle typically stay close to feed and water except in seasons with abundant annual growth when cattle range widely in the Pinacate region.

Mining occurred historically throughout much of the U.S. range of the pronghorn, but is currently not a significant threat to Sonoran pronghorn in the U.S. During recent pronghorn surveys in Mexico, increasing effects from gold mining activities were noted in habitats used by the sub-population located southeast of Highway 8.

Illegal crossings by undocumented immigrants and drug smugglers in the U.S. range of the pronghorn have increased dramatically in recent years. In 2001, estimates of undocumented migrants traffic reached 1,000 per night in OPCNM alone (Organ Pipe Cactus National Monument 2001), and an estimated 150,000 people entered the monument illegally from Mexico (Milstead and Barns 2002). Apprehensions of illegal immigrants and smugglers by the Ajo Station of the Tucson USBP Sector increased from 2837 in 1997 to 6327 in 2005 (personal communication with David BeMiller, February 10, 2006). From October 2005 to February 2006, 6908 apprehensions were made by the Ajo Station (personal communication with David BeMiller, February 10, 2006). The Wellton Station of the Yuma USBP Sector made 2080 apprehensions in fiscal year 2005 and 3339 apprehensions from October 2005 to February 2006 (personal communication with David BeMiller, February 10, 2006). USBP agents have indicated, however, that apprehensions have recently decreased due to USBP presence at Camp Grip (electronic mail from David Guzewich, February 8, 2008). Illegal border-related activities and required USBP response have resulted in widespread habitat degradation and increased human presence in remote areas. For instance, all the valleys at Cabeza Prieta NWR are now criss-crossed with a network of north-south roads and trails, even though those areas are designated as wilderness. Illegal immigrants and smugglers have shifted their activities to more remote areas, including Sonoran pronghorn habitat in southwestern Arizona, as USBP has been able to successfully gain control of more urban areas. There is anecdotal evidence that pronghorn are avoiding areas of high illegal traffic and law enforcement activities (personal communication with Curtis McCasland, CPNWR, 2007).

Fire

The winter and spring of 2004/2005 were very wet, resulting in some of the highest productivity of cool season annual plants in recent memory. As these annual plants dried out, they created fuel for wildfire. In 2005, Mediterranean grass combined with high densities of the native woolly plantain (*Plantago ovata*) and other species created fuels adequate to carry fire. Military

training, such as strafing and bombing in the tactical ranges, as well as fires set by illegal immigrants or smugglers, provided the ignition sources. Exact numbers are unknown; however, in 2005 roughly 7,500 acres of pronghorn habitat burned on the CPNWR (personal communication with Curtis McCasland, CPNWR, February 15, 2006) and more than 63,000 acres burned on the BMGR-East during that time. Approximately 29,260 acres of pronghorn habitat were consumed as a result of these fires.

Most Sonoran Desert trees, shrubs, and cacti are poorly adapted to fire (Brown and Minnich 1986, Schwalbe *et al.* 2000, Alford and Brock 2002). If areas burn repeatedly, permanent changes are likely in the flora. Even in the best scenario it is likely to be many years before trees once again provide thermal cover in wash communities and cholla recover to a point that they are useful forage plants for pronghorn. In 2007, pronghorn were attracted to the burned areas, which often supported better growth of annual plants and forbs than adjacent unburned areas. However, in the long term and if these areas continue to burn, removal of thermal cover (trees) and chain fruit cholla, which they depend on in drought, would likely adversely affect pronghorn and probably limit the use of these areas to wetter and cooler periods and seasons.

Drought

As discussed, drought may be a major factor in the survival of adults and fawns (Bright and Hervert 2005), and the major decline in 2002 was driven by drought. Mean annual temperatures rose 2.0-3.1 °F in the American Southwest in the 20th century, and are predicted to rise 8.1-11.0 °F in the 21st century. Most of the observed increases in globally averaged temperatures since the mid-20th century are very likely due to the observed increases in anthropogenic greenhouse gas concentrations (Intergovernmental Panel on Climate Change 2007). In the Sonoran Desert, anthropogenic climate change is causing warming trends in winter and spring, decreased frequency of freezing temperatures, lengthening of the freeze-free season, and increased minimum temperatures in winter, which will likely cause changes in vegetation communities (Weiss and Overpeck 2005). These increases in temperature are predicted to be accompanied by a more arid climate in the Southwest (Seager *et al.* 2007, Intergovernmental Panel on Climate Change 2007). As a result, the Sonoran pronghorn is expected to be confronted with more frequent drought, which increases the importance of recovery actions, such as forage enhancement plots and water developments, which can offset the effects of drought.

Small Population Size and Random Changes in Demographics

At populations of less than 100, population viability declines at an increasingly steep rate. To maintain genetic diversity over the long term, a population of at least 500 is desirable (Defenders of Wildlife 1998). At an estimated 21 in 2002, and roughly 70 wild pronghorn in 2007, the U.S. sub-population is critically endangered and is going through a genetic bottleneck. At an estimated 25 in 2002 and 59 in 2004, the Pinacate sub-population is also well below desired numbers. At 625, the third sub-population (southeast of Highway 8) is marginally large enough to maintain genetic diversity. Loss of the U.S. sub-population would dramatically reduce our ability to manage or recover this subspecies. Populations at low levels may experience random variations in sex ratios, age distributions, and birth and death rates among individuals, which can cause fluctuations in population size and possibly extinction (Richter-Dyn and Goel 1972). In

very sparse populations, males may have trouble finding females, reducing productivity (Ehrlich and Roughgarden 1987). Small populations are also sensitive to variations in natural processes, such as drought and predation (Hecht and Nickerson 1999).

Disease

Sonoran pronghorn can potentially be infected by a variety of viral and bacterial diseases. Blood testing has shown pronghorn exposure to these diseases by increases in antibody titers over time. The diseases relevant to pronghorn can be transmitted indirectly through vectors, such as infected midges or ticks, or directly via aerosolized or direct contact of infected fluids or tissues. Diseases that potentially infect pronghorn are all serious diseases of cattle, which can act as vectors. Cattle within the current range of the pronghorn have not been tested for these diseases.

ENVIRONMENTAL BASELINE

The environmental baseline includes past and present impacts of all Federal, state, or private actions in the action area; the anticipated impacts of all proposed Federal actions in the action area that have undergone formal or early section 7 consultation; and the impact of state and private actions which are contemporaneous with the consultation process. The environmental baseline defines the current status of the species and its habitat in the action area to provide a platform from which to assess the effects of the action now under consultation.

A. Action Area

The “action area” means all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action. Within the U.S. portion of the Sonoran pronghorn’s range, pronghorn interact to form one sub-population in which interbreeding may occur. The U.S. sub-population is effectively separated from sub-populations in the El Pinacate Region and on the Gulf Coast of Sonora by Mexico Highways 2 and 8. Activities that may affect animals in any portion of the U.S. range of the pronghorn may affect the size or structure of the U.S. sub-population, or habitat use within the U.S. range. The action area for this biological opinion is defined as the current range of the pronghorn within the U.S. (Figure 3), plus areas along the border 3.1 miles to the east and 2.1 miles to the west of the Lukeville POE.

Management of the action area is almost entirely by Federal agencies. The BMGR (roughly 1.6 million acres) is managed by Luke Air Force Base and MCAS-Yuma primarily for military training. OPCNM manages 329,000 acres in the southeastern corner of the action area for scenic, ecological, natural, and cultural values. CPNWR lies along the border west of OPCNM and encompasses 860,000 acres. CPNWR is managed to protect, maintain, and restore the diversity of the Sonoran Desert. Most of the refuge and OPCNM are designated as wilderness. The BLM manages lands near Ajo for recreation, grazing, and other multiple uses in accordance with the Lower Gila Resource Management Plan. OPCNM and CPNWR are critically important for Sonoran pronghorn recovery because of their management for protection of natural resources. Lands on the BMGR are managed primarily for military training, and although important

recovery is ongoing on these lands and the Department of Defense has generously contributed to the recovery program both on and off the BMGR, changing military priorities could, in the future, limit the value of the BMGR for Sonoran pronghorn recovery.

B. Terrain, Vegetation Communities, and Climate in the Action Area

The action area is characterized by broad alluvial valleys separated by block-faulted mountains and surface volcanics. The Yuma Desert on the western edge of the BMGR is part of a broad valley that includes the Colorado River. Major drainages and mountain ranges run northwest to southeast. Major drainages flow mostly northward to the Gila River, although southern portions of OPCNM and the southern slope of the Agua Dulce Mountains drain south to the Río Sonoyta.

Climate is characterized by extreme aridity, mild winters, and hot summers. Approximately 2.7 inches of precipitation fall annually at Yuma, with slightly more than half of this occurring in the winter months (Brown 1982). Annual precipitation increases from west to east across the BMGR; at Aguajita/Quitobaquito, precipitation is 10.5 inches annually.

The vegetation community of the western portion of the BMGR has been classified as the lower Colorado River Valley subdivision of Sonoran Desert scrub (Brown 1982). It is the largest and most arid subdivision of Sonoran Desert scrub. The Arizona Upland subdivision of Sonoran Desert scrub is found in the Growler, Puerto Blanco, Ajo and Bates mountains, and surrounding bajadas.

C. Status of the Sonoran Pronghorn in the Action Area

Distribution, Abundance, and Life History

The distribution and abundance of the Sonoran pronghorn in the action area is the same as that described above in the Status of the Species for the U.S. sub-population. Life history, including demographics, chronology of breeding and movements, diet, and other factors were also described above for the U.S. population.

Drought

As discussed in the Status of the Species, anthropogenic climate change in the Southwest and the Sonoran Desert is predicted to result in warming trends and drier conditions, with accompanying changes in vegetation communities (Weiss and Overpeck 2005, Seager *et al.* 2007). Rowlands (2000) examined trends in precipitation for southwestern Arizona and OPCNM from 1895-1999. For southwestern Arizona, no trend in precipitation was found for the period, but low precipitation occurred around 1895 and during the 1950s. Periods of high precipitation occurred in 1915-1920 and in the 1980s. For OPCNM, there was a slightly increasing trend in monthly and annual precipitation over the period 1895-1999, a strong drought occurred in the 1950s, and a lesser drought occurred in the 1970s. No discernable trend in precipitation in southwestern Arizona or OPCNM was found in the 1990s, which is when the current decline in the U.S. pronghorn sub-population began.

Since Rowland's analysis, we had one year characterized by above-average rainfall and abundant ephemeral forage (2001) followed by a year with virtually no precipitation or ephemeral forage (2002). Recruitment and survival were high in 2001 and very low in 2002 (Bright and Hervert 2005). Based on the lack of forage and water, and the condition of pronghorn observed, drought is considered the proximate cause of the 79% decline in the U.S. pronghorn sub-population from 2000 to 2002. The December 2007 long-term (48-months) drought status report (http://www.azwater.gov/dwr/drought/documents/December_2007_Drought_Monitor_Report.pdf) indicates that southwestern Arizona continues to experience abnormally dry to severe drought conditions. Despite this, since 2002, winter and summer precipitation, in conjunction with emergency recovery actions, has been adequate to maintain pronghorn reproduction and fawn survival.

Historically, pronghorn populations must have weathered many severe droughts in the Sonoran Desert, including many that were more severe and longer term than what has occurred recently. Given that pronghorn populations survived the droughts of the 1890s, 1950s, 1970s, and others before those, it is unreasonable to solely attribute recent declines in the U.S. pronghorn population to drought. OPCNM (2001) concluded, "If (individual) recent dry years have had an impact on Sonoran pronghorn, it is most likely because in recent decades Sonoran pronghorn have much more limited options for coping with even brief moderate drought. Because of restrictions on their movements and range, and increasing human presence within their range, pronghorn are less able to employ their nomadic strategy in search of relief. It is not that drought itself is an impact, but possibly that drought has *become* an impact, due to other factors confounding the species' normal ecological strategy."

Emergency Recovery Actions

A number of critically important emergency recovery projects have been recently initiated in an attempt to reverse the decline of the U.S. sub-population of the Sonoran pronghorn (Krausman *et al.* 2005b). These projects are designed to increase availability of green forage and water during dry periods and seasons to offset to some extent the effects of drought and barriers that prevent pronghorn from accessing greenbelts and water, such as the Gila River and Río Sonoyta. Nine emergency water sources (six on CPNWR, one on OPCNM, and two on BMGR-West) have been constructed in recent years throughout the range of the U.S. sub-population. Four forage enhancement plots, each consisting of a well, pump, pipelines and irrigation lines, have been developed to irrigate the desert and produce forage for pronghorn. One plot is currently being constructed and two additional plots will be installed over the next five years.

A semi-captive breeding facility at CPNWR was first stocked with pronghorn in 2004 and now contains 37 animals. As described above, this facility will be used to augment the current U.S. sub-population, and potentially to establish a second herd at Kofa NWR. These crucial projects, which we hope will pull the U.S. population back from the brink of extinction, have been cooperative efforts among FWS, Arizona Game and Fish Department, MCAS-Yuma, Luke Air Force Base, and OPCNM, with volunteer efforts from the Arizona Desert Bighorn Sheep Society, Arizona Antelope Foundation, and the Yuma Rod and Gun Club.

D. Past and Ongoing Non-Federal Actions in the Action Area

The Status of the Species section describes a variety of human activities that have affected the Sonoran pronghorn since initiation of livestock grazing over 300 years ago (Officer 1993). Most non-Federal activities that have affected the pronghorn are historical in nature, and pronghorn have been all but extirpated from private, state, and Tribal lands.

E. Past and Ongoing Federal Actions in the Action Area

Because of the extent of Federal lands in the action area, most activities that currently, or have recently, affected the U.S. sub-population or their habitat are Federal actions. The primary Federal agencies involved in activities in the action area include the MCAS-Yuma, Luke Air Force Base, FWS, BLM, OPCNM, and Border Patrol. In the following discussion, we have categorized Federal actions affecting the pronghorn as: 1) those actions that have not yet undergone section 7 consultation (although in some cases consultation has been completed on components of the Federal activity), and 2) Federal actions that have undergone consultation.

Federal Actions For Which Consultation Has Not Been Completed

1) Tucson Sector of the Border Patrol

We have been in informal consultation with the Tucson Sector Border Patrol regarding development of a biological assessment for several years (consultation number 02-21-99-I-0138). This consultation will encompass all field activities conducted by the Tucson Sector under their program to detect, deter, and apprehend undocumented immigrants and drug traffickers. Activities within the Ajo Station of the Tucson Sector have the greatest potential to adversely affect pronghorn; although currently that Station is being operated out of the Yuma Sector. Adverse effects may result from patrol and drag road activities, off-road operations, aircraft overflights, the use and maintenance of sensors, construction of vehicle barriers and fences, and installation, operation, and maintenance of cameras and communication towers. From 2002 to 2006, about 180 miles of illegal roads were created in wilderness areas of CPNWR (Segee and Neeley 2006). These routes were likely created both by Border Patrol and smugglers, and all are probably used by Border Patrol. Furthermore, the potential for disturbance to pronghorn due to human presence may increase in areas where agents live on site (i.e., Operation Grip). Border Patrol activities can be beneficial as well, in that they deter illegal border crossings, foot traffic, and off-road vehicles in pronghorn habitat associated with undocumented aliens and smuggling. At the same time, effectiveness of Border Patrol operations elsewhere along the U.S/Mexico border have driven illegal activities into remote areas, such as CPNWR. McCasland (pers. comm. 2007) has anecdotal observations suggesting a negative correlation between areas of high Border Patrol and smuggling traffic and pronghorn use.

2) Smuggler/Drug Interdiction

We are aware of U.S. Customs, Drug Enforcement Authority, and Arizona Army National Guard smuggler or drug interdiction activities in pronghorn habitat, including vehicle and helicopter activities. However, none of these agencies have provided information to us about the extent or

types of activities they conduct, and no consultation has occurred on these activities. Impacts are probably similar in scope to those described for the Tucson Sector activities.

3) BLM Off-Road Vehicle Use Area

We are aware of an off-road vehicle (ORV) use area located north of Ajo on BLM land, near the CPNWR, and adjacent to suitable pronghorn habitat. The BLM has not authorized the use of this ORV area but plans to in the updated Resource Management Plan (RMP) they are developing for BLM lands in the vicinity. They will request formal section 7 consultation on the updated RMP. To date, BLM has not provided us with information about the extent and type of use of the ORV area or its possible effects to pronghorn.

Federal Actions Addressed in Section 7 Consultations

As part of our comprehensive discussion of all past and present actions affecting pronghorn within the action area, we describe below all biological opinions issued to date on actions that may affect the pronghorn.

Several opinions addressed projects with minor effects to the pronghorn (capture and collaring of pronghorn for research purposes, consultation numbers 02-21-83-F-0026 and 02-21-88-F-0006; installation of a water source in the Mohawk Valley for pronghorn, consultation number 02-21-88-F-0081; implementation of the CPNWR Comprehensive Conservation Plan, consultation number 22410-2006-F-0416; a change in aircraft type from the F-15A/B to the F-15E on BMGR-East [F-15E Beddown Project], consultation number 02-21-89-F-0008; and the following projects at OPCNM: widen North Puerto Blanco Road project, consultation number 02-21-01-F-0109; roadway and drainage improvements to SR 85, consultation 02-21-01-F-0546; vehicle barrier, consultation number 02-21-02-F-237; and improvement, maintenance, and use of the West Boundary Route, consultation number 02-21-05-M-0100 (this opinion has not yet been finalized)). Incidental take was anticipated only for the Beddown Project in the form of harassment as a result of aircraft overflights. This project was later incorporated into the biological opinion on Luke Air Force Base's activities on the BMGR, discussed below. All of these formal consultations can be viewed on our website at <http://www.fws.gov/arizonaes/Biological.htm>.

Nine biological opinions evaluated major projects with greater effects to pronghorn:

Border Patrol Activities in the Yuma Sector, Wellton Station, Yuma, Arizona

This biological opinion (consultation number 02-21-96-F-0334), issued September 5, 2000, addressed all Border Patrol activities along the United States/Mexico border in Yuma County from the Colorado River to about the area of Pinta Sands at the southern end of the Sierra Pinta Mountains. The Yuma Sector requested reinitiation of consultation, and we delivered a draft biological opinion in 2004; however, we have not received comments from the Border Patrol to date. Currently, Border Patrol activities within the Yuma Sector/Wellton Station include helicopter and ground patrols; drag road preparation and assessment of road maintenance; remote sensor installation and maintenance; maintenance of pedestrian fences east and north of San Luis, construction of a vehicle barrier on the CPNWR, apprehensions and rescues; and assistance

to other sectors and agencies. Disturbance to pronghorn was anticipated as a result of on-the-ground Border Patrol operations, and direct injury or mortality of pronghorn as a result of collision with Border Patrol vehicles or by low-level helicopter flights abruptly approaching and startling pronghorn, which may result in injury or energetic stress, particularly during drought. Pronghorn may also be adversely affected by noise and visual impacts of helicopter overflights. To reduce adverse effects on pronghorn, the Border Patrol agreed to implement a number of conservation measures. We determined that the proposed action was not likely to jeopardize the continued existence of the pronghorn. We anticipated take in the form of harassment that is likely to injure up to one pronghorn in 10 years. The following reasonable and prudent measures were provided: 1) minimize injury of pronghorn; 2) monitor and study reactions of pronghorn on BMGR to Border Patrol activities; and 3) provide a means to determine the level of incidental take that results from Border Patrol activities. Several conservation recommendations were also provided. We are not aware of any incidental take attributable to Yuma Sector activities.

BLM's Lower Gila South Management Area

Three biological opinions address BLM's Lower Gila South Management Area. The Lower Gila South Resource Management Plan-Goldwater Amendment (consultation number 02-21-90-F-0042), proposed specific and general management guidance for non-military activities on the BMGR. The non-jeopardy biological opinion, issued April 25, 1990, was programmatic, requiring BLM to consult when site-specific projects are proposed. No incidental take was anticipated. The Lower Gila South Habitat Management Plan (HMP) (consultation number 02-21-89-F-0213) provided management guidance for both specific and general actions in southwestern Arizona. Four actions were addressed in the HMP, including an exchange of 640 acres near Ajo, rehabilitation work on two catchments, and assessment of livestock removal from pronghorn habitat. Exchange of land out of public ownership may facilitate development or other uses that would preclude use by pronghorn. The non-jeopardy opinion was issued on May 15, 1990. The biological opinion for the Lower Gila South Resource Management Plan and Amendment (consultation number 02-21-85-F-0069) addressed programmatic management of lands in southwestern Arizona, including livestock grazing, wilderness, cultural resources, fire, minerals and energy, recreation, wildlife management, wood cutting, Areas of Critical Environmental Concern, and other land uses. The non-jeopardy biological opinion was issued on March 27, 1998; no incidental take was anticipated. In regard to management on the BMGR, these three opinions have been replaced by the opinion on the BMGR's Integrated Natural Resources Management Plan (INRMP) (see below). The Air Force and MCAS-Yuma have assumed BLM's management responsibilities on the BMGR.

BLM grazing allotments in the vicinity of Ajo, Arizona

The original biological opinion (consultation number 02-21-94-F-0192), issued December 3, 1997, addressed effects to pronghorn resulting from issuance of grazing permits on five allotments, four of which were located near Ajo and Why (Cameron, Childs, Coyote Flat, and Why allotments); and the fifth near Sentinel (Sentinel allotment). All but portions of allotments east of Highway 85 were considered to be within the current distribution of the Sonoran pronghorn. Reinitiations resulted in revised biological opinions dated November 16, 2001, September 30, 2002, June 21, 2004, March 3, 2005, and March 8, 2007. Under the current

proposed action, the Cameron Allotment is closed, the Sentinel Allotment has been in non-use for several years, the Coyote Flat and Why allotments were combined into one (Coyote Flat Allotment), and the Childs Allotment remains relatively unchanged in terms of management. Effects of livestock grazing activities included reduced forage availability for pronghorn, human disturbance due to livestock management, barriers to movement caused by pasture and allotment fences, and potential for disease transfer from cattle to pronghorn. The March 8, 2007 opinion concluded that the proposed action was not likely to jeopardize the continued existence of the pronghorn. No incidental take was anticipated, and none is known to have occurred.

Organ Pipe Cactus National Monument General Management Plan

The original biological opinion (consultation number 02-21-89-F-0078), issued June 26, 1997, addressed implementation of OPCNM's General Management Plan (GMP). This opinion was reinitiated five times, resulting in revised biological opinions dated November 16, 2001, April 7, 2003, March 10 and August 23, 2005, and March 8, 2007. GMP plan elements included: 1) continuing travel and commerce on SR 85 while enhancing resource protection, 2) seeking designation of OPCNM as the Sonoran Desert National Park, 3) establishment of partnerships, 4) increased wilderness and an interagency wilderness and backcountry management plan, 5) changes in trails, facilities, and primitive camping, and 6) implementation of a Cultural Resources Management Plan. Included were a number of conservation measures to minimize impacts to pronghorn. Effects of the action included human disturbance to pronghorn and habitat due to recreation and management activities. We determined that the proposed action was not likely to jeopardize the continued existence of the pronghorn. In the latest versions of the opinion, no incidental take of pronghorn was anticipated. No incidental take is known to have occurred.

Marine Corps Air Station-Yuma in the Arizona Portion of the Yuma Training Range Complex

The original biological opinion (consultation number 02-21-95-F-0114), was issued on April 17, 1996. That opinion was reinitiated and revised opinions were issued November 16, 2001 and August 6, 2003. These opinions addressed all proposed and authorized actions on the BMGR by MCAS-Yuma, including ongoing and proposed changes to military flights over CPNWR and the BMGR, operation of various training facilities such as landing strips, a rifle range, targets, a parachute drop zone, a transmitter/telemetry system, ground support areas, and Weapons Tactics Instructor courses, conducted twice a year (March-April and October-November) that involve overflights, ground-based activities, and deliverance of ordnance at targets in BMGR-East. Ground-based activities, such as those of troops and vehicles at ground-support areas were determined to adversely affect pronghorn habitat use. In areas where helicopters fly particularly low and create noise and visual stimuli, disturbance of pronghorn was anticipated. Ordnance delivery at North and South TACs could disturb pronghorn, and ordnance, live fire, and shrapnel could potentially strike and kill or injure a pronghorn. MCAS-Yuma proposed measures to reduce the direct and indirect impacts of the proposed action, including measures to reduce or eliminate take of Sonoran pronghorn and to minimize destruction and degradation of habitat. We determined that the proposed action was not likely to jeopardize the continued existence of the pronghorn. In the 2003 version of the BO, no incidental take of pronghorn was anticipated and none is known to have occurred.

Luke Air Force Base Use of Ground-Surface and Airspace for Military Training on the BMGR

The original biological opinion (consultation number 02-21-96-F-0094), issued August 27, 1997, addressed military use of the airspace above and the ground space on BMGR-East and CPNWR by Luke Air Force Base. Military activities within the area of overlap with the CPNWR were limited to use of airspace and operation of four Air Combat Maneuvering Instrumentation sites. Military activities occurring within BMGR-East included: airspace use, four manned air-to-ground ranges, three tactical air-to-ground target areas, four auxiliary airfields, Stoval Airfield, and explosive ordnance disposal/burn areas. Primary potential effects of the action included habitat loss due to ground-based activities, harassment and possible mortality of pronghorn at target areas, and disturbance of pronghorn due to military overflights. We determined that the proposed action was not likely to jeopardize the continued existence of the pronghorn. This opinion was reinitiated in 2001 and 2003, resulting in revised opinions dated November 16, 2001 and August 6, 2003. In the latest (2003) opinion, no incidental take was anticipated. We are not aware of any take of pronghorn confirmed attributable to Luke Air Force Base use of the ground-surface and airspace on the BMGR. A pronghorn found dead near a target may have been strafed, but it may also have died from other causes (see "Effects of the Proposed Action" in the 2003 opinion for a full discussion of this incident).

During the development of these opinions, Luke Air Force Base made substantial commitments to minimize the effects of their activities on the Sonoran pronghorn, and additionally committed to implementing a variety of recovery projects recommended by the Sonoran Pronghorn Recovery Team.

Western Army National Guard Aviation Training Site Expansion Project

The non-jeopardy biological opinion for WAATS (consultation number 02-21-92-F-0227) was issued on September 19, 1997; however, Sonoran pronghorn was not addressed in formal consultation until reinitiations and revised opinions dated November 16, 2001 and August 6, 2003. The purpose of WAATS is to provide a highly specialized environment to train ARNG personnel in directed individual aviator qualification training in attack helicopters. The WAATS expansion project included: 1) expansion of the existing Tactical Flight Training Area, which includes establishing four Level III touchdown sites, 2) development of the Master Construction Plan at the Silver Bell Army Helipoint, and 3) establishment of a helicopter aerial gunnery range for use by the ARNG on East TAC of the BMGR. All activities that are part of the proposed action occur outside the current range of the pronghorn, with the exception of training at North TAC. Training at North TAC only occurs when East TAC is closed for annual maintenance and EOD clearances (4-6 weeks each year). Effects to pronghorn at North TAC are minimized by monitoring protocols established by Luke Air Force Base. Training at East TAC could preclude recovery of historical habitat if the many other barriers that prevent pronghorn use of East TAC were removed. The November 16, 2001 and August 6, 2003 opinions found that the proposed action was not likely to jeopardize the continued existence of the pronghorn. No incidental take was anticipated and none is known to have occurred as a result of the proposed action. ARNG included the following conservation measures as part of their proposed action: 1) they proposed to study the effects of low-level helicopter flights on a surrogate pronghorn population at Camp

Navajo, and 2) they committed to funding up to five percent of emergency recovery actions on the BMGR.

BMGR Integrated Natural Resources Management Plan

The non-jeopardy opinion for this action was issued on August 26, 2005. The Military Lands Withdrawal Act (MLWA) of 1999 required that the Secretaries of the Air Force, Navy, and Interior jointly prepare an INRMP for the BMGR, the purpose of which was to provide for the “proper management and protection of the natural and cultural resources of [the range], and for sustainable use by the public of such resources to the extent consistent with the military purposes [of the BMGR].” The proposed action was comprehensive land management, including public use restrictions, authorizations, and permitting on portions of the BMGR regarding camping, vehicle use, shooting, entry into mines, firewood collection and use, rockhounding, and other activities; natural resources monitoring, surveys, and research; habitat restoration; wildlife water developments; development of a wildfire management plan; law enforcement; limitations on the locations of future utility projects and the Yuma Area Service Highway; control of trespass livestock; and designation of special natural/interest areas, while allowing other designations to expire. The proposed action included many land use prescriptions that would improve the baseline for the pronghorn. No incidental take was anticipated, and none is known to have occurred from the proposed action.

Department of Homeland Security Permanent Vehicle Barrier

This biological opinion (consultation number 22410-2006-F-0113), issued September 15, 2006, addressed the CBP - Office of the Border Patrol’s installation of a permanent vehicle barrier (as well as access improvements, construction/improvement of border roads, and associated maintenance and patrol activities) along the border from the western end of the OPCNM barrier to Avenue C just east of San Luis, Arizona. Effects to pronghorn included 1) disturbance of a narrow swath of habitat along the border, 2) presence of construction crews and vehicles that may disturb or preclude use of the area by pronghorn, 3) presence of maintenance and patrol vehicles and crews along the barrier access road, and 4) dramatic reduction or elimination of illegal drive-throughs and required law enforcement response, with much reduced route proliferation and habitat damage from off-highway vehicles. We determined that the proposed action was not likely to jeopardize the continued existence of the pronghorn. No incidental take of pronghorn was anticipated. Subsequent to issuing the biological opinion, the action was changed to include the installation of a hybrid-style fence designed to prevent the passage of pedestrians. Because all environmental laws were waived (as permitted by the Real ID Act of 2005) by Secretary of the DHS, CBP never reinitiated consultation with us regarding this change to their proposed action.

F. Summary of Activities Affecting Sonoran Pronghorn in the Action Area

Historically, livestock grazing, hunting or poaching, and development along the Gila River and Río Sonoyta were all probably important factors in the well-documented Sonoran pronghorn range reduction and apparent population decline that occurred early in the 20th century. Historical accounts and population estimates suggest pronghorn were never abundant in the 20th

century, but recently, the estimated size of the wild population in the action area declined from 179 (1992) to 21 (December 2002) and 68 (2006). At 21 and 68, genetic diversity could erode, and the sub-population is in imminent danger of extirpation due to human-caused impacts, or natural processes, such as predation or continued drought. Although the proximate cause of the decline during 2002 was drought, human activities limit habitat use options by pronghorn and increase the effects of drought on the sub-population. The U.S. pronghorn sub-population is isolated from other sub-populations in Sonora by a highway and the U.S./Mexico boundary fence, and access to the greenbelts of the Gila River and Río Sonoyta, which likely were important sources of water and forage during drought periods, has been severed.

Within its remaining range, the pronghorn is subjected to a variety of human activities that disturb the pronghorn and its habitat, including military training, increasing recreational activities, grazing, increasing presence of undocumented immigrants and smugglers, and in response, increased law enforcement activities. MCAS-Yuma (2001) quantified the extent of the current pronghorn range that is affected by various activities and found the following: recreation covers 69.6 percent of the range, military training on North and South TACs covers 9.8 percent, active air-to-air firing range covers 5.8 percent, proposed EOD five-year clearance areas at North and South TACs and Manned Range 1 cover 1.0 percent, and MCAS-Yuma proposed ground support areas and zones cover 0.29 percent. Border Patrol enforcement and smuggling activities occur throughout the range of the pronghorn, and anecdotal evidence suggests pronghorn are avoiding areas of high enforcement and illegal activities. Historically, pronghorn tended to migrate to the southeastern section of their range (southeastern CPNWR and OPCNM) during drought and in the summer. Within the last few years, very few pronghorn have been observed south of El Camino del Diablo on CPNWR. This suggests illegal smuggling and the interdiction of these illegal activities have resulted in pronghorn avoiding areas south of El Camino del Diablo; these areas are considered important summer habitat for pronghorn and may have long-term management and recovery implications (McCasland pers. comm. 2007). All of the valleys at CPNWR, which were once nearly pristine wilderness Sonoran Desert, now have many braided, unauthorized routes through them and significant vehicle use by USBP agents pursuing illegal immigrants and smugglers. OPCNM (2001) identified 165 human activities in the range of the pronghorn, of which 112 were adverse, 27 were beneficial, 26 had both adverse and beneficial effects, and four had unknown effects. OPCNM (2001) concluded that in regard to the pronghorn, “while many projects have negligible impacts on their own, the sheer number of these actions is likely to have major adverse impacts in aggregate.”

Although major obstacles to recovery remain, since 2002, numerous crucial recovery actions have been implemented in the U.S. range of the species, including nine emergency waters and four forage enhancement plots, with additional waters and forage plots planned. The projects tend to offset the effects of drought and barriers to prevent movement of pronghorn to greenbelts such as the Gila River and Río Sonoyta. A semi-captive rearing facility, built on Cabeza Prieta NWR, currently holds 37 pronghorn. This facility will provide pronghorn to augment the existing sub-population and hopefully to establish a second U.S. sub-population at Kofa NWR.

The current range of the pronghorn in the U.S. is almost entirely comprised of lands under Federal jurisdiction; thus authorized activities that currently affect the pronghorn in the action area are almost all Federal actions. However, illegal, unauthorized foot traffic and off-road

vehicle activity, but also required Federal law enforcement response have been and continue to be significant threats to the pronghorn and its habitat. Prior to November 2001, in seven of 12 biological opinions issued by FWS that analyzed impacts to the pronghorn, we anticipated that take would occur. In total, we anticipated take of five pronghorn in the form of direct mortality every 10-15 years, and an undetermined amount of take in the form of harassment. Given the small and declining population of pronghorn in the U.S. at the time the opinions were written, take at the levels anticipated in the biological opinions would constitute a substantial impact to the population.

Changes made in proposed actions and reinitiated biological opinions from 2001 to the present, plus the findings in other recent opinions, reduced the amount or extent of incidental take anticipated to occur from Federal actions. Significantly, we have been successful working with action agencies to modify proposed actions and to include significant conservation measures that reduce adverse effects to the pronghorn and its habitat. The only current opinion that anticipates incidental take is the Yuma Sector opinion, in which we anticipated take in the form of harassment that is likely to injure up to one pronghorn in 10 years. With the exception of likely capture-related deaths during telemetry studies (which were addressed in 10(a)(1)(A) recovery permits), we are unaware of any confirmed incidental take resulting from the Federal actions described here (although a pronghorn may have been strafed near one of the targets on BMGR-East – see above).

We believe the aggregate effects of limitations or barriers to movement of pronghorn and continuing stressors, including habitat degradation and disturbance within the pronghorn's current range resulting from a myriad of human activities, exacerbated by periodic dry seasons or years, are responsible for the present precarious status of the Sonoran pronghorn in the action area. However, collaborative, multi-agency and multi-party efforts to develop forage enhancement plots and emergency waters, combined with the success of the semi-captive breeding facility, plus planned future recovery actions, including establishment of a second U.S. sub-population, provide hope that recovery of the Sonoran pronghorn in the U.S. is achievable.

EFFECTS OF THE ACTION

Effects of the action refer to the direct and indirect effects of an action on the species or critical habitat, together with the effects of other activities that are interrelated and interdependent with that action that will be added to the environmental baseline. Interrelated actions are those that are part of a larger action and depend on the larger action for their justification. Interdependent actions are those that have no independent utility apart from the action under consideration. Indirect effects are those that are caused by the proposed action and are later in time, but are still reasonably certain to occur.

Sonoran Pronghorn

The proposed fence project may result in disturbance to Sonoran pronghorn and/or degradation of pronghorn habitat. Construction and maintenance of the fence and roads, as well as possible increased illegal pedestrian and law enforcement activity to the west of the project will result in removal, destruction, and disturbance of vegetation that may provide forage and cover to

pronghorn and may visually and auditorily disturb pronghorn. Though activities associated with the proposed project may be detrimental to pronghorn, conservation measures included in the project description will minimize and help offset disturbance to pronghorn and degradation of their habitat. The fence may have a beneficial effect on pronghorn and pronghorn habitat in the Lukeville area if it is successful in reducing the number of illegal pedestrians that currently cross into the pronghorn range from Mexico. However, habitat damage and disturbance of pronghorn to the west of the project may increase if illegal traffic is redirected to the west of the fence.

Effects from Construction and Maintenance Activities

Construction and maintenance activities associated with the project may result in some, though we anticipate minimal, disturbance to Sonoran pronghorn, particularly on the western slope of Sonoyta Hill, where there is a greater chance for pronghorn to occur. At least during the project construction phase, disturbance will be minimized by having a biological monitor present (only during construction activities on the western slope of Sonoyta Hill) to ensure that all project construction activities are suspended if Sonoran pronghorn are detected within 0.62 mile of project activities. Access to the western portion of the construction site (i.e., west of Highway 85) will be along the OPCNM border road and South Puerto Blanco road. Though use of these roads may result in some disturbance to Sonoran pronghorn, because pronghorn are not likely to occur near the border or South Puerto Blanco roads between Highway 85 and Sonoyta Hill (based on pronghorn detections for the last 13 years and abundant near-by human presence), we anticipate disturbance to pronghorn will be minimal. Vehicles associated with construction and maintenance could also collide with pronghorn causing injury and/or death. However, we believe the likelihood of collisions with construction and maintenance vehicles is probably low because, as described in the “Status of the Species”, pronghorn are relatively rare, particularly within the project corridor; vehicles will travel at speeds less than 25 miles per hour; and because we are not aware of any such collisions in the U.S., or along unpaved routes anywhere within the range of the Sonoran pronghorn.

Effects from Pedestrian Traffic and Patrol Activities

The fence may have a beneficial effect on Sonoran pronghorn if it reduces illegal pedestrian activities and law enforcement pursuits within the Sonoran pronghorn range. These benefits are most likely to accrue immediately north of the pedestrian fence in the Lukeville area. However, if illegal traffic is redirected, particularly to the west of fence, disturbance to pronghorn and important pronghorn habitat in that area will increase. Patrol activities, which are expected to increase to the west of the fence if illegal traffic shifts west, may additionally disturb pronghorn and their habitat. As noted in the Environmental Baseline, pronghorn appear to be avoiding areas south of the Camino del Diablo in CPNWR possibly due to high levels of smuggling and required law enforcement response. Shifting traffic to west of the Lukeville fence would exacerbate these effects. Increased illegal and law enforcement activities in pronghorn habitat could cause pronghorn to flee and result in short-term denial of access to habitat, both of which would likely result in severe adverse physiological effects to pronghorn. As discussed in the “Status of the Species” and below, Sonoran pronghorn are sensitive to human disturbance. Vehicle traffic is disturbing to pronghorn and will often cause flight or startle responses with associated adverse physiological changes. Hughes and Smith (1990) found that pronghorn immediately ran 1,310-1,650 feet from a vehicle. Krausman *et al.* (2001) found that Sonoran pronghorn reacted to ground disturbances (vehicles or people on foot) with a change in behavior

37 percent of the time, resulting in the animals running or trotting away 2.6 percent of the time. Wright and deVos (1986) noted that Sonoran pronghorn exhibit “a heightened response to human traffic” as compared to other subspecies of pronghorn. Disturbance and flight of ungulates are known to result in a variety of physiological effects that are adverse, including elevated metabolism, lowered body weight, reduced fetus survival, and withdrawal from suitable habitat (Geist 1971, Harlow *et al.* 1987), which may be exacerbated in harsh environments such as those occupied by Sonoran pronghorn. Disturbance may also lead to mortality, including increased vulnerability to predator attack and susceptibility to heat stress and malnutrition.

Because pronghorn are rare, encounters with illegal immigrants and smugglers should be a relatively rare event. The likelihood of encounters will increase however if illegal traffic increases to the west of the fence. Patrol vehicles pursuing illegal immigrants/smugglers along the improved vehicle route adjacent to the pedestrian fence or in areas to west of the fence in response a shift in illegal traffic could also collide with pronghorn causing injury and/or death. However, we believe the likelihood of collisions with patrol vehicles is probably low because vehicles will not likely be traveling at high speeds (due to traveling primarily along unimproved routes); we are not aware of any such collisions in the U.S., or along unpaved routes anywhere within the range of the Sonoran pronghorn; and pronghorn are relatively rare. Shifts in illegal and law enforcement activity to the west could also further degrade pronghorn habitat in that area. Trails and other soil disturbance can increase erosion, promote the spread of invasive species, and increase the potential for fires, which can adversely affect Sonoran pronghorn habitat. Additionally, off-road vehicle travel can cause changes in surface hydrology (from channelization of water in entrenched vehicle track prisms), which may substantially impact vegetation that provides forage and cover to pronghorn.

However, if patrol increases to the west of the fence along the border, and illegal activity is more successfully interdicted at the border, we anticipate the frequency of law enforcement pursuits through the action area should decrease, which will minimize disturbance to pronghorn and degradation of their habitat. Increased patrol along the border may disturb pronghorn and cause them to avoid or less frequently use the border area. However, because pronghorn are rare along the border, encounters with patrol activities near the border should be a relatively rare event.

Habitat Loss and Degradation

The proposed project would result in the direct disturbance of approximately 45 acres (this includes 17 acres of previously disturbed area); however, much of this is not considered suitable habitat for pronghorn due to abundant near-by human presence or rocky, steep terrain. However, the 45 acres of disturbed ground will be susceptible to colonization by invasive non-native plants such as buffelgrass, Sahara mustard, and *Eruca vesicaria*. Non-native species may outcompete natives and carry fire which could impact near-by pronghorn habitat. As stated in the “Status of the Species”, most Sonoran Desert trees, shrubs, and cacti, which provide thermal cover and forage for pronghorn, are very fire intolerant.

Removal of vegetation via fire and direct disturbance in the pronghorn’s range decreases the amount of thermal cover and forage available to pronghorn, with adverse effects to pronghorn, especially in drought situations when less forage is already available. The amount of habitat loss due to fence and road construction, however, is extremely small in the context of the

approximately 2 million acres of potentially suitable habitat available to the U.S. sub-population of Sonoran pronghorn. The amount of habitat loss due to potential fire cannot be predicted; however, fire could impact a significant amount of pronghorn habitat. Control of non-native plants within the project footprint, as proposed by CBP, should help decrease the risk of fire within the Sonoran pronghorn range. Additionally, restoration of 84 acres, if it occurs within the Sonoran pronghorn range, should help offset impacts to pronghorn habitat caused by the project.

Barriers to Pronghorn Movement

The proposed project overlays an existing barrier to Sonoran pronghorn movement, the international boundary. It is generally thought that pronghorn currently do not cross the international boundary due to the combined barrier effects of: (1) the international-boundary livestock fence; (2) Mexican Highway 2; (3) right-of-way fencing and livestock fencing that is intermittent along Highway 2 between Sonoyta and San Luis; and (4) human settlements and activity concentrations, which are expanding linearly along the boundary. Mexican Highway 2 does not continue near the border east of Lukeville (it turns south) and thus does not act as a barrier to trans-border Sonoran pronghorn movement along the eastern portion of the proposed project. Sonoran pronghorn, however, in recent years have only rarely been documented using the eastern portion of the proposed project area, likely due to the barrier effect of Highway 85. The proposed fence would completely impede any attempted trans-border Sonoran pronghorn movements near Lukeville. However, because Sonoran pronghorn are not known to cross the international border due to aforementioned existing barriers, we do not anticipate the fence will affect their trans-border movement patterns.

Conservation Measures

CBP's commitments to provide funding to fill a Sonoran pronghorn water for 10 years (at an annual cost of \$2,500.00) will help offset potential impacts to pronghorn that may occur as a result of this project and will generally aid in the conservation and recovery of pronghorn. Furthermore, restoration of 84 acres, if it occurs with the Sonoran pronghorn range, will also help offset project impacts to pronghorn.

Pronghorn Status

The most recent formal Sonoran pronghorn survey in December 2006 resulted in an estimated 68 wild pronghorn in the U.S. population, which was a substantial increase from an estimated 18 wild pronghorn in the U.S. in 2002. This increase can likely be attributed to improved habitat conditions since 2002 when a severe drought occurred, as well as emergency recovery actions such as forage enhancement plots and waters (see details under the "Environmental Baseline"), which undoubtedly offset to some extent the effects of drought and barriers that prevent pronghorn from accessing greenbelts and water, such as the Gila River and Río Sonoyta. We expect these recovery actions may also help offset adverse effects from this project as well as other activities within the action area that disturb pronghorn and their habitat. Because pronghorn remain critically endangered, however, it is imperative that all adverse effects to pronghorn from the proposed action and other activities are minimized and offset to the greatest extent possible.

CUMULATIVE EFFECTS

Cumulative effects include the effects of future State, tribal, local or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the Act.

Most lands within the action area (current range of the pronghorn within Arizona) are managed by Federal agencies; thus, most activities that could potentially affect pronghorn are Federal activities that are subject to section 7 consultation. The effects of these Federal activities are not considered cumulative effects. Relatively small parcels of private and State lands occur within the currently-occupied range of the pronghorn near Ajo and Why, north of the BMGR from Dateland to Highway 85, and from the Mohawk Mountains to Tacna. State inholdings in the BMGR were acquired by the USAF. Continuing rural and agricultural development, recreation, vehicle use, grazing, and other activities on private and State lands adversely affect pronghorn and their habitat. MCAS-Yuma (2001) reports that 2,884 acres have been converted to agriculture near Sentinel and Tacna. These activities on State and private lands and the effects of these activities are expected to continue into the foreseeable future. Historical habitat and potential recovery areas currently outside of the current range are also expected to be affected by these same activities on lands in and near the action area in the vicinity of Ajo, Why, and Yuma.

Of particular concern are illegal border crossings by undocumented immigrants and smugglers. In fiscal year 2005, the Yuma Sector of the Office of Border Patrol (OBP) apprehended record numbers of illegal immigrants and smugglers, and from October 1, 2005 to May 2006, 96,000 were made, which was a 13% increase over the same time period in 2005 (Gerstenzang 2006). In 2001, estimates of undocumented migrant traffic reached 1,000 per night in OPCNM alone (National Park Service 2001 or OPCNM 2001) and an estimated 150,000 people entered the OPCNM illegally from Mexico (Milstead and Barns 2002). Increased presence of the Border Patrol in the Douglas, Arizona area, and in San Diego (Operation Gatekeeper) and southeastern California, pushed illegal immigrant and smuggler traffic into remote desert areas, such as CPNWR, OPCNM, and BMGR (Klein 2000). Though the operation of Camp Grip within the CPNWR and the temporary camp detail at Bates Well on the OPCNM reduced the number of illegal drive-throughs in the eastern portion of the CPNWR in FY 2005 (Hubbard 2005, as cited in U.S. Customs and Border Protection 2005). In recent years, the number of illegal roads and foot trails created by illegal immigrants within the CPNWR has increased substantially (U.S. Customs and Border Protection 2005, C. McCasland pers. comm. 2007). These illegal crossings and required law enforcement response have resulted in route proliferation, off-highway vehicle activity, increased human presence in backcountry areas, discarded trash, abandoned vehicles, cutting of firewood, illegal campfires, and increased chance of wildfire. Habitat degradation and disturbance of pronghorn almost certainly result from these illegal activities. Currently, much of the illegal traffic travels through the southern passes of the Growler Mountains and lead either through or by all of our forage enhancements and captive rearing pen in the Child's Valley, with potential to impact these recovery projects and use of the area by pronghorn (C. McCasland pers. comm. 2007). Probably due to increased enforcement presence, ongoing construction of a vehicle barrier at CPNWR, and the vehicle barrier at OPCNM, all forms of illegal activities except narcotics trafficking are significantly down so far in fiscal year 2008 as compared to the same period in fiscal year 2007. Apprehensions are down from 40-67% at OPCNM and

CPNWR over this period, and thus far in FY 08 no drive-throughs have occurred at OPCNM (CBP presentation to the Borderlands Management Task Force, January 16, 2008). Despite high levels of illegal activity and required law enforcement response throughout the action area, pronghorn in the U.S. have managed to increase since 2002, although their use of areas subject to high levels of illegal use and law enforcement have likely declined, as discussed above.

We expect illegal activities and their effects on pronghorn to continue, though they should be reduced once the PVB on CPNWR is completed (as of this writing, the PVB has been installed from the border of OPCNM and CPNWR to the boundary of Pima and Yuma counties).

CONCLUSION

After reviewing the current status of the Sonoran pronghorn, the environmental baseline for the action area, the effects of the proposed activities associated with the Lukeville fence project, and the cumulative effects, it is our biological opinion the proposed action is not likely to jeopardize the continued existence of the Sonoran pronghorn. No critical habitat has been designated for this species, therefore, none will be affected. Our conclusion is based on the following:

1. The Sonoran pronghorn population has increased since 2002, despite high levels of human use in the form of off- and on-road vehicle and foot travel by smugglers, illegal immigrants, and law enforcement.
2. Completion of forage enhancement plots, waters, and the semi-captive breeding facility have helped make the pronghorn population in the U.S. more secure and more resistant to drought and other stressors.
3. Loss of pronghorn habitat resulting from this project is very small in the context of the approximately 2 million acres of potentially suitable habitat available to the U.S. sub-population of Sonoran pronghorn. Additionally, habitat disturbance will be minimized by conducting project activities within previously disturbed areas to the extent practicable.
4. The likelihood of pronghorn crossing the international boundary with Mexico in the project area is currently very low because of current physical barriers (e.g., Mexico Highway 2) and human activities. Therefore, the presence of the Lukeville fence is unlikely to result in additional barriers to pronghorn movement across the international boundary.
5. Conservation measures included in the proposed action will reduce disturbance to pronghorn during project construction activities (i.e., the presence of a biological monitor to ensure that all project construction activities are suspended if pronghorn are detected within 0.62 mile of project activities).
6. Conservation measures included in the proposed action (i.e., funding to fill a pronghorn water and habitat restoration) will help offset adverse effects to pronghorn that could result from implementation of the project.

7. When added to the environmental baseline, the status of the species, and cumulative effects, the effects of the proposed action do not reduce appreciably the likelihood of survival and recovery of the subspecies in the wild. Therefore, the proposed action will not jeopardize the continued existence of the subspecies. Though illegal activity could increase to the west of the fence, such activity should be reduced by CPB/USBP's assignment of additional agents to unprotected areas. The presence of a vehicle barrier to the west of the fence also halts most or all illegal vehicle traffic. Consequently, adverse effects to pronghorn from possible increased illegal activity should be minimized. Additionally, once the Lukeville fence is completed we expect to see a dramatic decrease in illegal traffic in the Lukeville area. Decreased illegal and legal human activity within pronghorn habitat in the vicinity of Lukeville will be beneficial to pronghorn.

The conclusions of this biological opinion are based on full implementation of the project as described in the "Description of the Proposed Action" section of this document, including any conservation measures that were incorporated into the project design.

INCIDENTAL TAKE STATEMENT

Section 9 of the ESA and Federal regulation pursuant to section 4(d) of the ESA prohibit the take of endangered and threatened species, respectively, without special exemption. "Take" is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. "Harm" is defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). "Harass" is defined as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering (50 CFR 17.3). "Incidental take" is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the ESA provided that such taking is in compliance with the terms and conditions of this incidental take statement.

AMOUNT OR EXTENT OF TAKE ANTICIPATED

We do not anticipate the proposed action will result in incidental take of Sonoran pronghorn for the following reasons:

1. Pronghorn are rare; making encounters with human activities (both legal and illegal) associated with the Lukeville fence project a relatively rare event.
2. Measures included in the proposed action, such as the daily surveys for Sonoran pronghorn, will further reduce the potential for take.

3. No incidental take of Sonoran pronghorn is known to have occurred in Arizona due to CBP/OBP or illegal immigrant/smuggler activities.

LESSER LONG-NOSED BAT STATUS OF THE SPECIES

A. Species Description

The lesser long-nosed bat is a medium-sized, leaf-nosed bat. It has a long muzzle and a long tongue, and is capable of hover flight. These features are adaptations for feeding on nectar from the flowers of columnar cacti (e.g., saguaro; cardon, *Pachycereus pringlei*; and organ pipe cactus, *Stenocereus thurberi*) and from paniculate agaves (e.g., Palmer's agave, *Agave palmeri*) (Hoffmeister 1986). The lesser long-nosed bat was listed (originally, as *Leptonycteris sanborni*; Sanborn's long-nosed bat) as endangered in 1988 (U.S. Fish and Wildlife Service 1988). No critical habitat has been designated for this species. A recovery plan was completed in 1994 (U.S. Fish and Wildlife Service 1997). Loss of roost and foraging habitat, as well as direct taking of individual bats during animal control programs, particularly in Mexico, have contributed to the current endangered status of the species. Recovery actions include roost monitoring, protection of roosts and foraging resources, and reducing existing and new threats.

B. Distribution and Life History

The lesser long-nosed bat is migratory and found throughout its historical range, from southern Arizona and extreme southwestern New Mexico, through western Mexico, and south to El Salvador. It has been recorded in southern Arizona from the Picacho Mountains (Pinal County) southwest to the Agua Dulce Mountains (Pima County) and Copper Mountains (Yuma County), southeast to the Peloncillo Mountains (Cochise County), and south to the international boundary. Roosts in Arizona are occupied from late April to September (Cockrum and Petryszyn 1991) and on occasion, as late as November (Sidner 2000); the lesser long-nosed bat has only rarely been recorded outside of this time period in Arizona (U. S. Fish and Wildlife Service 1997, Hoffmeister 1986, Sidner and Houser 1990). In spring, adult females, most of which are pregnant, arrive in Arizona gathering into maternity colonies. These roosts are typically at low elevations near concentrations of flowering columnar cacti. After the young are weaned these colonies mostly disband in July and August; some females and young move to higher elevations, primarily in the southeastern parts of Arizona near concentrations of blooming paniculate agaves. Adult males typically occupy separate roosts forming bachelor colonies. Males are known mostly from the Chiricahua Mountains and recently the Galiuro Mountains (personal communication with Tim Snow, Arizona Game and Fish Department, 1999) but also occur with adult females and young of the year at maternity sites (U. S. Fish and Wildlife Service 1997). Throughout the night between foraging bouts, both sexes will rest in temporary night roosts (Hoffmeister 1986).

Lesser long-nosed bats appear to be opportunistic foragers and extremely efficient fliers. They are known to fly long distances from roost sites to foraging sites. Night flights from maternity colonies to flowering columnar cacti have been documented in Arizona at 15 miles, and in Mexico at 25 miles and 36 miles (one way) (Dalton *et al.* 1994; personal communication with V.

Dalton, 1997; personal communication with Y. Petryszyn, University of Arizona, 1997). Steidl (personal communication, 2001) found that typical one-way foraging distance for bats in southeastern Arizona is roughly 12.5 miles. A substantial portion of the lesser long-nosed bats at the Pinacate Cave in northwestern Sonora (a maternity colony) fly 25-31 miles each night to foraging areas in OPCNM (U.S. Fish and Wildlife Service 1997). Horner *et al.* (1990) found that lesser long-nosed bats commuted 30-36 miles round trip between an island maternity roost and the mainland in Sonora; the authors suggested these bats regularly flew at least 47 miles each night. Lesser long-nosed bats have been observed feeding at hummingbird feeders many miles from the closest known potential roost site (personal communication with Yar Petryszyn, University of Arizona, 1997).

Lesser long-nosed bats, which often forage in flocks, consume nectar and pollen of paniculate agave flowers and the nectar, pollen, and fruit produced by a variety of columnar cacti. Nectar of these cacti and agaves is high energy food. Concentrations of some food resources appear to be patchily distributed on the landscape, and the nectar of each plant species used is only seasonally available. Cacti flowers and fruit are available during the spring and early summer; blooming agaves are available primarily from July through October. In Arizona, columnar cacti occur in lower elevational areas of the Sonoran Desert region, and paniculate agaves are found primarily in higher elevation desert scrub areas, semi-desert grasslands and shrublands, and into the oak woodland (Gentry 1982). Lesser long-nosed bats are important pollinators for agave and cacti, and are important seed dispersers for some cacti.

C. Status and Threats

Recent information indicates that lesser long-nosed bat populations appear to be increasing or stable at most Arizona roost sites identified in the recovery plan (AGFD 2005, Tibbitts 2005, Wolf and Dalton 2005). Lesser long-nosed bat populations additionally appear to be increasing or stable at other roost sites in Arizona and Mexico not included for monitoring in the recovery plan (Sidner 2005). Less is known about lesser long-nosed bat numbers and roosts in New Mexico. Though lesser long-nosed bat populations appear to be doing well, many threats to their stability and recovery still exist, including excess harvesting of agaves in Mexico; collection and destruction of cacti in the U.S.; conversion of habitat for agricultural and livestock uses, including the introduction of buffleggrass, a non-native, invasive grass species; wood-cutting; drought; fires; human disturbance at roost sites; and urban development.

Approximately 20 – 25 large lesser long-nosed bat roost sites, including maternity and late-summer roosts, have been documented in Arizona (personal communication with Scott Richardson, FWS, 2006). Of these, 10 – 20 are monitored on an annual basis depending on available resources. Monitoring in Arizona in 2004 documented approximately 78,600 lesser long-nosed bats in late-summer roosts and approximately 34,600 in maternity roosts. Ten to 20 lesser long-nosed bat roost sites in Mexico are also monitored annually. Over 100,000 lesser long-nosed bats are found at just one natural cave at the Pinacate Biosphere Reserve, Sonora, Mexico (Cockrum and Petryszyn 1991). The numbers above indicate that although a relatively large number of lesser long-nosed bats exist, the relative number of known large roosts is quite small.

Maternity roosts, suitable day roosts, and concentrations of food plants are all critical resources for the lesser long-nosed bat. All of the factors that make roost sites useable have not yet been identified, but maternity roosts tend to be very warm and poorly ventilated (U.S. Fish and Wildlife Service 1997). Human presence/disturbance at roosts is clearly an important factor as bats appear to be particularly sensitive to human disturbance at roost sites. For example, the illegal activity, presumably by immigrants or smugglers, at the Bluebird maternity roost site, caused bats to abandon the site in 2002, 2003, and 2005. The presence of alternate roost sites may be critical when this type of disturbance occurs.

The lesser long-nosed bat recovery plan (U.S. Fish and Wildlife Service 1997) identifies the need to protect foraging areas and food plants such as columnar cacti and agaves. More information regarding the average size of foraging areas around roosts would be helpful to identify the minimum area around roosts that should be protected to maintain adequate forage resources.

The 2005 fires referred to under Sonoran Pronghorn “Status of the Species” affected some lesser long-nosed bat foraging habitat, though the extent is unknown. For example, the Goldwater, Aux, and Sand Tank Fire Complexes on BMGR-East burned through and around isolated patches of saguaros, but the immediate effects and longer term impacts of the fires on saguaros are not yet known. Monitoring of saguaro mortality rates should be done to assess the impacts on potential lesser long-nosed bat foraging habitat. Fire suppression activities associated with the 2005 fires could also have affected foraging habitat. For example, slurry drops may have left residue on saguaro flowers, which could have impacted lesser long-nosed bat feeding efficiency or resulted in minor contamination.

Drought (see the “Status of the Species” and “Environmental Baseline” for Sonoran pronghorn for further details regarding drought) may affect lesser long-nosed bat foraging habitat, though the effects of drought on bats are not well understood. The drought in 2004 resulted in near complete flower failure in saguaros throughout the range of lesser long-nosed bats. During that time however, in lieu of saguaro flowers, lesser long-nosed bats foraged heavily on desert agave (*Agave deserti*) flowers, a plant not typically used by lesser long-nosed bats (personal communication with Scott Richardson, FWS, March 20, 2006). Similarly, there was a failure of the agave bloom in southeastern Arizona in 2006, probably related to the ongoing drought. As a result, lesser long-nosed bats left some roosts earlier than normal, and increased use of hummingbird feeders by lesser long-nosed bats was observed in the Tucson area (personal communication with Scott Richardson, FWS, January 11, 2008). Monitoring bats and their forage during drought years is needed to better understand the effects of drought on this species.

We have produced numerous biological opinions on the lesser long-nosed bat since it was listed as endangered in 1988, some of which anticipated incidental take. Incidental take has been in the form of direct mortality and injury, harm, and harass and has typically been only for a small number of individuals. Because incidental take of individual bats is difficult to detect, incidental take has often been quantified in terms of loss of forage resources, decreases in numbers of bats at roost sites, or increases in proposed action activities.

A few examples of more recent biological opinions that anticipated incidental take for lesser long-nosed bats are summarized below. The 2007 biological opinion for the installation of one

600 kilowatt wind turbine and one 50KW mass megawatts wind machine on Fort Huachuca included incidental take in the form of 10 bats caused by blade-strikes for the life (presumed indefinite) of the proposed action. The 2005 biological opinion for implementation of the Coronado National Forest Land and Resource Management Plan (U.S. Forest Service) included incidental take in the form of harm or harass. The amount of take for individual bats was not quantified; instead take was to be considered exceeded if simultaneous August counts (at transitory roosts in Arizona, New Mexico, and Sonora) drop below 66,923 lesser long-nosed bats (the lowest number from 2001 – 2004 counts) for a period of two consecutive years as a result of the action. The 2004 biological opinion for the Bureau of Land Management Arizona Statewide Land Use Plan Amendment for Fire, Fuels, and Air Quality Management included incidental take in the form of harassment. The amount of incidental take was quantified in terms of loss of foraging resources, rather than loss of individual bats. The 2003 biological opinion for Marine Corps Air Station (MCAS) – Yuma Activities on the BMGR included incidental take in the form of direct mortality or injury (five bats every 10 years). Because take could not be monitored directly, it was to be considered exceeded if nocturnal low-level helicopter flights in certain areas on the BMGR increased significantly or if the numbers of bats in the Agua Dulce or Bluebird Mine roosts decreased significantly and MCAS-Yuma activities were an important cause of the decline. The 2002 biological opinion for Department of the Army Activities at and near Fort Huachuca (Fort), Arizona anticipated incidental take in the form of direct mortality or injury (six bats over the life of the project), harassment (20 bats per year), and harm (10 bats over the life of the project).

ENVIRONMENTAL BASELINE

A. Action Area

The action area is defined as all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action (50 CFR §402.02). The FWS has determined that the action area for the lesser long-nosed bat includes the areas directly impacted by the installation of primary fence (including the fence and access roads) and an area around the project defined by a circle with a radius of 36 miles (the maximum documented one-way foraging distance of the lesser long-nosed bat). The action area represents only a small portion of the lesser long-nosed bat's range.

Management of the action area is largely by Federal agencies, as described in the "Action Area" for Sonoran pronghorn. The action area for the lesser long-nosed bat also includes part of the Tohono O'odham Nation (TON) and lands near the border in Sonora.

B. Terrain, Vegetation Communities, and Climate in the Action Area

A description of the region encompassing the action area has been previously provided (see "Environmental Baseline", part B. Terrain, Vegetation Communities, and Climate in the Action Area" for the Sonoran pronghorn).

The project is near the Sonoita and Puerto Blanco mountains. Suitable day and night roosting potentially occur within the immediate project vicinity, however, these areas have not recently been surveyed for lesser long-nosed bat roosts.

C. Status of the Lesser Long-Nosed Bat in the Action Area

Based on the known foraging distances for lesser long-nosed bats, it is likely that this species forages throughout portions of the OPCNM, CPNWR, TON, and BLM lands, where flowers and fruit of saguaro, organ pipe, prickly pear, and agave are available.

Three large maternity roosts occur in the action area, including Bluebird Mine, Copper Mountain Mine, and Pinacate Cave. Bluebird Mine, located along the eastern border of CPNWR in the Growler Mountains, is over 15 miles northwest of the nearest border portion of the project site and generally supports an estimated 3,000 lesser long-nosed bats at the peak of annual occupancy (U.S. Fish and Wildlife Service 1997). The highest estimate of lesser long-nosed bats using Bluebird Mine from 2001-2005 was 4,500. They abandoned the mine however in 2002, 2003, and 2005 due to disturbance from illegal activities. In 2004, the bats returned to the mine after CPNWR staff placed a high steel fence around the mine to prevent disturbance. The bats returned to the mine in 2005, however abandoned the site once again after the fence was damaged, presumably by illegal immigrants or smugglers.

Copper Mountain Mine, located within the OPCNM, is about 15 miles north of the nearest border portion of the project and supports approximately 25,000 bats at the peak of annual occupancy (National Park Service 2002). The highest estimate of lesser long-nosed bats using Copper Mountain Mine from 2001-2005 was 35,000.

The largest maternity roost in the project area is Pinacate Cave in northern Sonora, Mexico. Approximately 40 miles south of the nearest border portion of project site, this roost is estimated to support about 130,000 bats each year (U.S. Fish and Wildlife Service 1997). In May 2006, approximately 200,000 lesser long-nosed bats were counted at the Pinacate Cave. However, in 2007, a significantly lower number of lesser long-nosed bats (83,000) were observed at this roost.

Before they give birth, female bats probably occasionally move between the Bluebird and Copper Mountain roosts, and it has been recommended that these two roosts be censused simultaneously to avoid double-counting bats (U.S. Fish and Wildlife Service 1997). Observations at Copper Mountain and Pinacate Cave indicate that they are occupied from mid-April to early-to-mid-September (U.S. Fish and Wildlife Service 1997), although these roosts reach their peak occupancy in late spring/early summer.

Though OPCNM and CPNWR monitor the Copper Mountain and Bluebird roosts annually to determine the presence, abundance, and disturbance of lesser long-nosed bats, including examining the roost year round for evidence of human entry, the rest of OPCNM and CPNWR has not been well surveyed to determine the number of additional day and night roosts that might exist in natural caves and/or mineshafts. A small roost or roosts is known to occur in the Agua Dulce Mountains in the southeastern corner of the CPNWR, though the current status (i.e.,

whether lesser long-nosed bats are still using the site) of the roost is unknown. Smaller day roosts are known in other mine tunnels, and are also suspected in other mines and natural rock crevices and caves. Short-term night roosts are known in natural caves, under the eaves of buildings, and inside several abandoned buildings associated with past ranching activities. It is likely that there is within- and between-season interchange between these colonies, perhaps even within and between nights (U. S. Fish and Wildlife Service 1997).

Flowers and fruits of saguaro, organ pipe cactus, and cardon provide nearly all of the energy and nutrients obtained by pregnant and lactating females roosting in the Sonoran Desert in the spring and early summer (U.S. Fish and Wildlife Service 1997). Saguaro, which is common and abundant throughout much of the BMGR, CPNWR, and OPCNM; and organ pipe cactus, which is common at OPCNM and localized in the eastern portions of CPNWR and BMGR, and portions of the TON, flower in May and fruit mature in June and July (Benson and Darrow 1982). Lesser long-nosed bats feed on both the nectar and fruits of these cacti. When cacti fruit are scarce or unavailable in late July or early August, agave nectar may be the primary food resource for lesser long-nosed bats in OPCNM, CPNWR, and TON. Agaves typically bolt or flower and provide a nectar resource for foraging bats from about July into October. Desert agave occurs in mountainous areas within the action area. As mentioned above under “Status of the Species”, fires and drought may affect some lesser long-nosed bat foraging habitat within the action area, though the extent is unknown.

A number of activities occur in the action area that could affect bats. For example, our 1997 biological opinion on the OPCNM General Management Plan, found that the proposed action could result in incidental take of bats from recreation, specifically from unauthorized human disturbance to the Copper Mountain maternity roost. Our 2003 biological and conference opinion for the installation of the international boundary vehicle barrier on the OPCNM did not find the action could result in incidental take, but found that the project would result in the disturbance of 70 acres of potential lesser long-nosed bat foraging habitat, including the destruction of up to 750 to 1000 saguaro and 80 to 100 organ pipe cacti (about 400 to 600 of these were to be salvaged). Our 2006 biological opinion on the CBP - Office of the Border Patrol’s installation of a permanent vehicle barrier (as well as access improvements, construction/improvement of border roads, and associated maintenance and patrol activities) along the border from the western end of the OPCNM barrier to Avenue C just east of San Luis, Arizona, did not find the action could result in incidental take. It did find, however, that the project would result in the direct disturbance of approximately 207 acres of potential lesser long-nosed bat foraging habitat, including the destruction of up to 50 saguaros and 3 organ pipe cacti. About 200 saguaros in the project corridor were to be avoided or salvaged.

High levels of undocumented immigrant activities and narcotics trafficking (see “Environmental Baseline, part E. Threats” for the Sonoran pronghorn for further detail about undocumented immigrant activity) and the associated damage resulting to the landscape from their activities, as well the activities of law enforcement in pursuit of undocumented immigrants, is becoming an increasing threat, not just to lesser long-nosed bats but to all wildlife of the region. As stated earlier, much illegal traffic occurs through the Growler Mountains, and Bluebird Mine on CPNWR in the Growlers was vandalized by suspected illegal immigrants in June 2002, which resulted in at least four dead bats and abandonment of the roost. The bats returned to the mine in 2005; however, abandoned the site once again after the fence was damaged by illegal

immigrants. Both OPCNM and CPNWR are planning to implement additional protective measures at Copper Mountain and Bluebird Mine, such as the possible construction of bat-friendly gates at roost entrances to prevent illegal human entry. However, lesser long-nosed bats are sensitive to bat gates and may not adapt readily to their use. Therefore, use of bat gates to protect these roosts may not be a feasible alternative

EFFECTS OF THE ACTION

Effects to Roosts

No known or suspected roost sites will be directly impacted by the proposed action. At its closest point, the proposed project is approximately 15 miles from the Copper Mountain roost on OPCNM and the Bluebird Mine roost on CPNWR, and will have no direct impact on these sites or the Pinacate Cave roost site. Neither will the proposed action directly impact any potential roosting habitat (mines, caves, etc.) on OPCNM.

The proposed action may have an indirect positive effect on lesser long-nosed bats using the Copper Mountain roost if the fence decreases the amount of illegal pedestrian traffic in areas directly north of the fence (the Copper Mountain roost site is located 15 miles north of the proposed fence). Decreases in illegal pedestrian traffic near roost sites decrease the possibility of illegal entry into these sites which can cause disturbance to bats (i.e., roost abandonment). The proposed action, however, may adversely affect lesser long-nosed bats using the Bluebird Mine roost if the fence results in the redirection of and subsequent increase in illegal pedestrian traffic through the eastern portions of CPNWR. We anticipate the likelihood of this occurring is relatively low.

Effects to Cross-Border Movements

The effects of fences on lesser long-nosed bat movement patterns are unknown. We do not anticipate the fence will greatly impact cross-border movement of lesser long-nosed bats because they are agile fliers and because the fence will not be installed along the entire border of OPCNM. If the fence does impede their cross-border movements, the ability of lesser long-nosed bats using the Pinacate roost to obtain adequate food resources will be diminished given their heavy reliance on these resources in OPCNM.

Effects to Foraging Habitat

The proposed project will result in the disturbance of lesser long-nosed bat food plants (approximately 206 to 266 saguaros and 295 to 397 organ pipe cacti⁵); however, as stated in the "Description of the Proposed Action", CBP will salvage (remove and replant outside the project corridor) all columnar cacti less than three feet tall to the extent practicable (approximately 74 saguaros and 68 organ pipe cacti⁵) and will attempt to salvage all columnar cacti between three and six feet tall (41 saguaro and 55 organ pipe cacti⁵) that face danger of destruction within the project corridor as determined by the biological monitor and that have been identified using GPS-technology (either by GSRC or OPCNM). Because saguaros and organ pipe cacti less than

⁵ During a recent survey (February 2008), OPCNM staff counted a total of 140 salvageable saguaros and 112 salvageable organ pipe cacti and 126 non-salvageable saguaros and 285 non-salvageable. These numbers differ from those provided by GSRC; however, regardless of the exact number, all saguaros and organ pipe determined to be salvageable within the project footprint will be salvaged.

6 feet tall generally do not flower, the salvaged cacti, once replanted, will not be available as a forage resource for lesser long-nosed bats until they reach the size at which they flower. Construction activities associated with the proposed project will likely destroy approximately 91 to 126 saguaros and 172 to 285 organ pipe cacti on the OPCNM; approximately 115 to 140 saguaros and 112 to 123 organ pipe within the project corridor will be salvaged. Seedlings that may have been missed during the surveys⁶ will likely be destroyed by project activities. Additionally, the roots and rooting areas of plants adjacent to the project corridor might also be damaged, which may affect plant vigor and cause increased plant mortality.

According to BP, the proposed project will result in the permanent disturbance of about 45 acres. Of this, about 17 acres was previously disturbed by the installation of PVBs; however, about 28 acres of potential lesser long-nosed bat foraging habitat adjacent to the international border will be newly disturbed. The 45 acres of disturbed ground will be susceptible to colonization by invasive non-native plants such as buffelgrass, Sahara mustard, and *Eruca vesicaria*. Non-native species may prevent the recruitment of lesser long-nosed bat forage species (columnar cacti and agaves) and may also carry fire that could also impact lesser long-nosed bat forage species. Most Sonoran Desert trees, shrubs, and cacti are very fire intolerant. For example, fires at Saguaro National Park resulted in greater than 20 percent mortality of mature saguaros (Schwalbe *et al.* 2000).

In addition to areas directly disturbed by the project, we anticipate some, unquantifiable amount of potential lesser long-nosed bat foraging habitat will be affected by altered hydrology and increased erosion and sedimentation caused by the fence and associated road. Though the Final EA says that the fence and road will be designed and constructed in a way that would not alter drainage patterns or cause increased downstream erosion and sedimentation, we expect some effects to hydrological function based on the effects of the OPCNM PVB. According to the Research and Endangered Species Coordinator at OPCNM, after significant rainfall events, debris becomes lodged on the OPCNM PVBs (six inch-wide posts on five-foot centers), which creates a dam that causes water to pool upstream (up to 100+ feet) and laterally (up to 300+ feet)(electronic mail from Tim Tibbits, October 4, 2007). We anticipate the fence and road will cause at least some changes in hydrology, as well as increased erosion and sedimentation.

Destruction of and damage to lesser long-nosed bat forage plants and disturbance of potential bat foraging habitat will reduce food available to the lesser long-nosed bat; this will likely adversely affect bats, especially during drought periods when forage availability is already impaired. It is difficult to evaluate the significance of the loss of foraging habitat; however, this loss is small compared to the large amount of potentially suitable foraging habitat available to the lesser long-nosed bat throughout the action area. However, it is still extremely important that effects to forage resources are minimized.

The proposed project may result in fewer disturbances to lesser long-nosed bat foraging habitat directly north of the fence if the fence decreases the amount of illegal pedestrian and pursuant law enforcement traffic in these areas. Construction of the fence, if it redirects illegal pedestrian

⁶ Gulf South Research Corporation conducted surveys in August 2007 by walking, with 30 feet between two surveyors, the project corridor and recording the species and location of each columnar cactus seen.

and pursuant law enforcement activities to the east and west of the fence, however, may result in greater disturbance of lesser long-nosed bat foraging habitat in these areas. Trails and other soil disturbance can increase erosion, promote the spread of invasive plant species, and increase the potential for fires, which can adversely affect lesser long-nosed bat food resources. Off-road vehicle travel may damage the shallow root systems of large columnar cacti, causing loss of vigor or death, and result in destruction of numerous columnar cacti, and can be assumed to destroy large numbers of seedlings. Also, off-road travel can cause changes in surface hydrology (from channelization of water in entrenched vehicle track prisms), which can adversely affect vegetation, including lesser long-nosed bat forage species.

Though nighttime construction is not anticipated, if it occurs within bat foraging habitat, bat foraging behavior may be temporarily affected. Because bats are nocturnal, we do not anticipate that daytime construction and maintenance activities will affect bat foraging behavior.

Conservation measures

Environmental design measures incorporated into the project, such as implementing erosion control techniques and constructing the fence in arroyos in a way that ensures proper conveyance of floodwater, will help minimize project impacts to lesser long-nosed bat foraging habitat.

Additionally, CBP's commitment to salvage, replant, and monitor the success of 238 columnar cacti; restore 84 acres within OPNCM, and control non-native plants within the project footprint, will help offset project impacts to lesser long-nosed bats.

CUMULATIVE EFFECTS

Most lands within the action area are managed by Federal agencies; thus, most activities that could potentially affect bats are Federal activities that are subject to section 7 consultation. The effects of these Federal activities are not considered cumulative effects. However, a portion of the action area also occurs on the TOIR, on private lands in the U.S., and in Mexico. Residential and commercial development, farming, livestock grazing, surface mining and other activities occur on these lands and are expected to continue into the foreseeable future. These actions, the effects of which are considered cumulative, may result in small-scale loss or degradation of lesser long-nosed bat foraging habitat, and potential disturbance of roosts. Illegal immigrant/smuggler activities, described above under "Cumulative Effects" for pronghorn, can result in loss or degradation of potential lesser long-nosed bat foraging habitat (impacts to foraging habitat have not been quantified however) and disturbance to and abandonment of roosts, as has been documented at the Bluebird Mine roost site. Though immigrant/smuggler activity has been high in recent years, it has declined recently, likely due to increased law enforcement presence (see Cumulative Effects for the pronghorn). In spite of these activities, lesser long-nose bat populations appear to be increasing or stable at many roost sites within and outside the action area.

CONCLUSION

After reviewing the current status of the lesser long-nosed bat, the environmental baseline for the action area, the effects of the proposed activities associated with the Lukeville fence project, and

the cumulative effects, it is our biological opinion that the proposed action is not likely to jeopardize the continued existence of the lesser long-nosed bat. No critical habitat has been designated for this species, therefore, none will be affected. Our conclusion is based on the following:

1. Lesser long-nosed bat populations appear to be increasing or stable at many roost sites in Arizona and Mexico.
2. The project will not directly affect any known bat roosts in the action area (Bluebird Mine, Copper Mountain Mine, and Pinacate Cave).
3. The project may increase the possibility of disturbance to bats at the Bluebird Mine roost site if it results in the redirection of and subsequent increase in illegal pedestrian traffic through the eastern portions of CPNWR; however, we anticipate the likelihood of this occurring is relatively low.
4. The project will result in direct loss of 28 acres of lesser long-nosed bat foraging habitat, but disturbance to and loss of foraging habitat and forage plants will be minimized through environmental design measures, such as implementing erosion control, and offset through conservation measures, such as the salvage of columnar cacti and habitat restoration. Specifically, CBP will salvage (remove and replant outside the project corridor) all columnar cacti less than three feet tall to the extent practicable and will attempt to salvage all columnar cacti between three and six feet tall (an estimated 238 saguaro and organ pipe cacti will be salvaged) that face danger of destruction within the project corridor as determined by the biological monitor and that have been identified using GPS-technology (either by GSRC or OPCNM). Additionally, CBP will fund the restoration of 84 acres within OPCNM.

The conclusions of this biological opinion are based on full implementation of the project as described in the “Description of the Proposed Action” section of this document, including any conservation measures that were incorporated into the project design.

INCIDENTAL TAKE STATEMENT

Section 9 of the ESA and Federal regulation pursuant to section 4(d) of the ESA prohibit the take of endangered and threatened species, respectively, without special exemption. “Take” is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. “Harm” is defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). “Harass” is defined as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding or sheltering (50 CFR 17.3). “Incidental take” is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the ESA

provided that such taking is in compliance with the terms and conditions of this incidental take statement.

AMOUNT OR EXTENT OF TAKE ANTICIPATED

We do not anticipate the proposed action will result in incidental take of lesser long-nosed bat for the following reasons:

1. The project will not directly affect any known bat roosts.
2. Impacts to bat foraging habitat and plants will be minimized and offset.

DISPOSITION OF DEAD OR INJURED LISTED SPECIES

Upon locating a dead, injured, or sick listed species initial notification must be made to the FWS's Law Enforcement Office, 2450 West Broadway Road, Suite 113, Mesa, Arizona, 85202, telephone: 480/967-7900), made within five calendar days and include the date, time, and location of the animal, a photograph if possible, and any other pertinent information. The notification shall be sent to the Law Enforcement Office with a copy to this office. Care must be taken in handling sick or injured animals to ensure effective treatment and care and in handling dead specimens to preserve the biological material in the best possible state.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the ESA directs Federal agencies to utilize their authorities to further the purposes of the ESA by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information. We recommend implementing the following actions:

1. In conjunction with OPCNM, CPNWR, BMGR, BLM, and TON facilitate restoration (i.e., re-contour entrenched areas, ensure the establishment of native vegetation, etc.) of areas degraded by off-route travel (by illegal immigrants/smugglers and OBP) within the action area (in addition to the areas that will be restored as part of the proposed action).
2. Monitor or provide funding to land managers to monitor future ecological conditions in the action area, including the overall success of active and passive restoration (i.e., the degree to which native vegetation becomes reestablished on illegal routes, the degree to which non-native invasive plants have decreased or increased, etc.).
3. Assist agencies in the control of non-native plants that may alter fire frequencies and intensities within OPCNM, CPNWR, BMGR, BLM, and TON, and in developing methods for controlling these species (lesser long-nosed bat Recovery Plan task 2).

4. Provide annual financial assistance (at least until illegal CPNWR immigrant/smuggler entry into southwestern Arizona is significantly reduced) to OPCNM, CPNWR, BMGR, BLM, and TON to monitor the effects of illegal immigrants/smugglers on lesser long-nosed bat roosts and foraging habitat and to restore habitat and implement protective measures for lesser long-nosed bats, such as fencing around roost sites.
5. Provide annual financial assistance (at least until illegal immigrant/smuggler entry into southwestern Arizona is significantly reduced) to OPCNM, CPNWR, BMGR, and BLM to monitor the effects of illegal immigrants/smugglers on pronghorn and their habitat, particularly near forage enhancement plots, water sites, and the semi-captive breeding pen, and to restore habitat and implement recovery actions for the Sonoran pronghorn.
6. Provide ongoing financial support to agencies to implement the Sonoran pronghorn and lesser long-nosed bat recovery plans, as appropriate.
7. Tucson and Yuma Sector offices should each have a full-time biologist or environmental specialist to assist OBP compliance with ESA, NEPA, and other environmental requirements; to provide environmental training to agents; and to coordinate with agencies regarding environmental issues.

In order for us to be kept informed of actions minimizing or avoiding adverse effects or benefiting listed species or their habitats, we request notification of the implementation of any conservation recommendations.

REINITIATION - CLOSING STATEMENT

This concludes formal consultation on the action outlined in this biological opinion. As provided in 50 CFR § 402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner that causes an effect to the listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to a listed species or critical habitat that was not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.

We appreciate CBP's efforts to identify, minimize, and offset effects to listed species from the project. For further information, please contact Erin Fernandez (x238) or Jim Rorabaugh (x230) of our Tucson Suboffice at (520) 670-6150. Please refer to the consultation number 22410-2008-F-0011 in future correspondence concerning this project.

Sincerely,

/s/ Steven L. Spangle
Field Supervisor

cc: Assistant Field Supervisor, Fish and Wildlife Service, Tucson, AZ
Superintendent, Organ Pipe Cactus National Monument, Ajo, AZ
Refuge Manager, Cabeza Prieta National Wildlife Refuge, Ajo, AZ
Director Construction and Support Office, Army Corps of Engineers, Ft. Worth, TX (Attn:
Charles McGregor)
Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ
Regional Supervisor, Arizona Game and Fish Department, Tucson, AZ
Regional Supervisor, Arizona Game and Fish Department, Yuma, AZ
Gulf South Research Corporation, Baton Rouge, LA (Attn: Chris Ingram)
Chairperson, Tohono O'Odham Nation, Sells, AZ

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TABLES AND FIGURES

Table 1. A summary of population estimates from literature and field surveys for Sonoran pronghorn in the U.S.

Date	Population estimate (95 percent CI ^a)	Source
1925	105	Nelson 1925
1941 ^b	60	Nicol 1941
1957	<1,000	Halloran 1957
1968	50	Monson 1968
1968-1974	50 - 150	Carr 1974
1981	100 - 150	Arizona Game and Fish Department 1981
1984	85 - 100	Arizona Game and Fish Department 1986
1992	179 (145-234)	Bright <i>et al.</i> 1999
1994	282 (205-489)	Bright <i>et al.</i> 1999
1996	130 (114-154)	Bright <i>et al.</i> 1999
1998	142 (125-167)	Bright <i>et al.</i> 1999
2000	99 (69-392)	Bright <i>et al.</i> 2001
2002	21 (18-33)	Bright and Hervert 2003
2004	58 (40-175)	Bright and Hervert 2005
2006	68 (52-116)	Unpublished data

^a Confidence interval; there is only a 5 percent chance that the population total falls outside of this range.

^b Population estimate for southwestern Arizona, excluding Organ Pipe Cactus National Monument.

Table 2. Comparison of U.S. Sonoran pronghorn population surveys, 1992-2006.

Date	<u>Pronghorn observed</u>		<u>Population estimates</u>		
	On transect	Total observed	Density estimate using DISTANCE (95 percent CI ^a)	Lincoln-Peterson (95 percent CI)	Sightability model (95 percent CI)
Dec 92	99	121	246 (103-584)	---	179 (145-234)
Mar 94	100	109	184 (100-334)	---	282 (205-489)
Dec 96	71	82 (95 ^b)	216 (82-579)	162 (4-324)	130 (114-154)
Dec 98	74	86 (98 ^b)	---	172 (23-321)	142 (125-167)
Dec 00	67	69 ^b	N/A	N/A	99 (69-392)
Dec 02	18	18	N/A	N/A	21 (18-33) ^c
Dec 04	39	51	N/A	N/A	58
Dec 06	51	59	N/A	N/A	68

^a Confidence interval; there is only a 5 percent chance that the population total falls outside of this range.

^b Includes animals missed on survey, but located using radio telemetry.

^c Jill Bright, Arizona Game and Fish Department, pers. comm. 2003

Figure 1. Proposed Lukeville Primary Fence Project corridor (Final EA, November 2007)

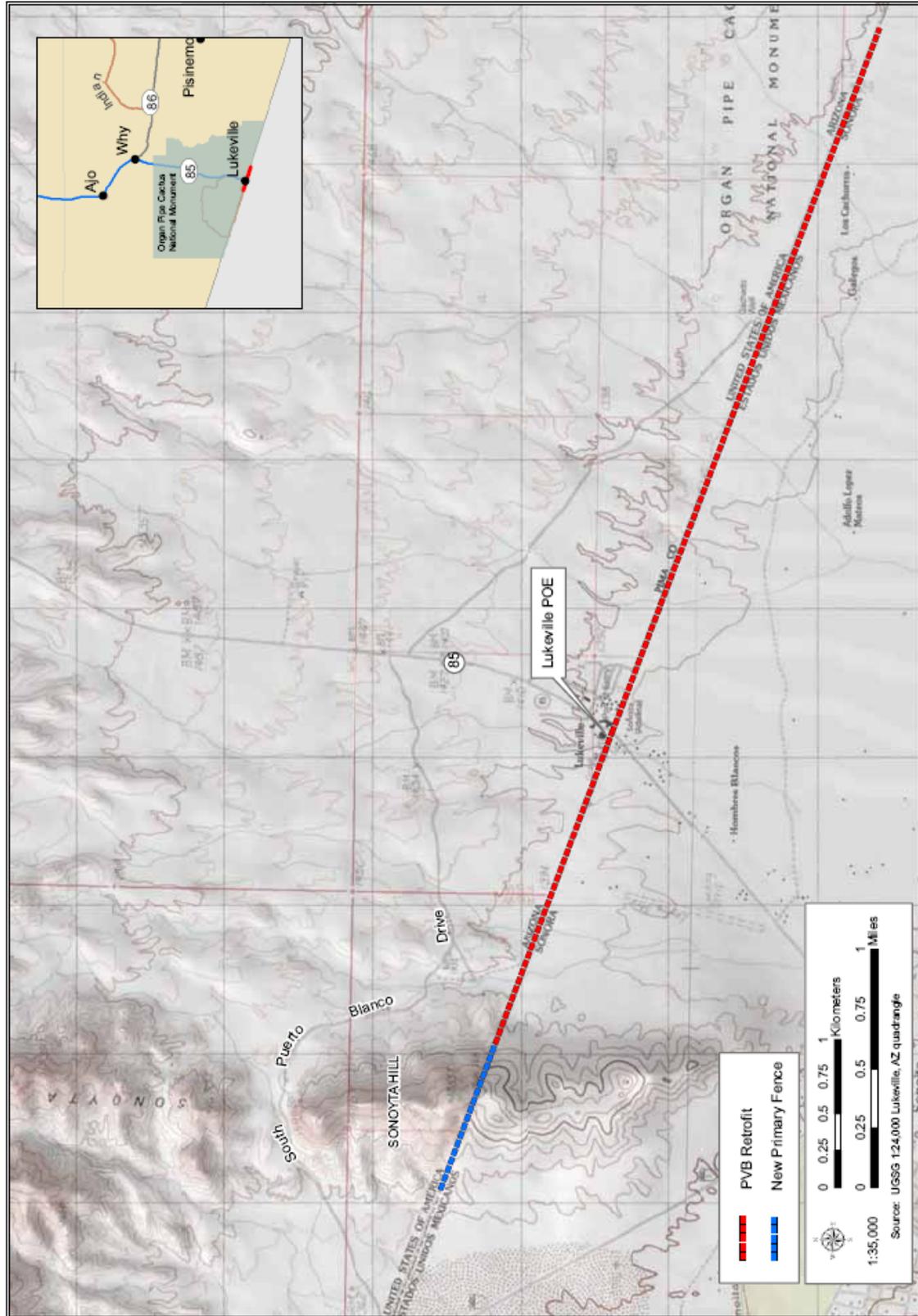


Figure 2-1: Proposed Action Alternative

Figure 3. Current Sonoran pronghorn distribution in the United State: Records from 1994-2001.

