

**Statement
of
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**House Committee on Natural Resources,
Subcommittee on National Parks, Forests, and Public Lands**

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Chairman Bishop, Ranking Member Grijalva, and Members of the Subcommittee, thank you for the opportunity to appear before you today to discuss H.R. 1505, the National Security and Federal Lands Protection Act. My name is Kim Thorsen, and I am the Deputy Assistant Secretary for Law Enforcement, Security, and Emergency Management at the Department of the Interior (Interior). I have been a law enforcement officer for twenty-five years with both Interior and the U.S. Forest Service and have been involved in border issues for the last eight years.

Introduction

We appreciate the attention that the Subcommittee has given to the issue of securing our borders. The Department of Homeland Security (DHS), including U.S. Customs and Border Protection (CBP), has been given the mandate to secure our international borders and deter illegal border related activity. At Interior, we have the responsibility of managing uniquely beautiful and environmentally sensitive lands along the borders.

As manager of one in every five acres of the United States, Interior's land managing agencies, the Bureau of Land Management (BLM), the National Park Service (NPS), the U.S. Fish and Wildlife Service (FWS), and the Bureau of Indian Affairs (BIA), take this responsibility very seriously. We recognize the significant ecological and cultural values of the extensive lands Interior agencies manage near the borders, and we strive to maintain their character and fulfill our mission to protect and preserve these assets on behalf of the American people.

We also believe that these two objectives – securing our borders and conserving our federal lands – are not mutually exclusive; we are not faced with a choice between the two. Instead, we can, and should, do both.

We are proud of the strong working relationship – based on cooperation and a mutual commitment to accomplishing our important agency missions – among all of our partner agencies.

In my testimony today, I would like to share with you the many ways that our Departments are working together to achieve our separate and important missions in the context of the dual objectives mentioned above. Collectively these efforts make additional legislation unnecessary.

Provisions of H.R. 1505

H.R. 1505 would authorize immediate access to the Secretary of Homeland Security to any public land managed by Interior for purposes of conducting activities that assist in securing the border, including access to maintain and construct roads, construction of roads and fences, use of vehicles to patrol, or the setting up of monitoring equipment. H.R. 1505 would also waive all environmental and land management laws within 100 miles of the international land and maritime borders of the United States for DHS activities that assist in securing the border. The bill lists these waived environmental and land management laws.

The Administration opposes H.R. 1505.

H.R. 1505 references the April 1, 2008, decision of then DHS Secretary, Michael Chertoff, to waive certain environmental and land management laws for the expeditious construction of certain portions of the fence along our southern border. Secretary Chertoff's decision was made after consultation and outreach with Interior and other federal, state, local, and tribal entities as well as other interested parties with the goal of minimizing potential effects of the DHS activities. In contrast, H.R. 1505 would extend this waiver to cover practically any activities of DHS on public lands within 100 miles of both the northern and southern borders of this country, and would provide "immediate access" to DHS for these activities. H.R. 1505 would not require consultation with any federal, state, local or tribal governments or with local residents. It would not even require notice of the proposed or undertaken activities.

As drafted, this bill could impact approximately 54 units of the national park system, 228 national wildlife refuges, 122 units of the National Wilderness Preservation System managed by Interior, and 87 units of BLM's National Landscape Conservation System, resulting in unintended damage to sensitive natural and cultural resources, including endangered species and wilderness. The bill could also affect up to 1,000 miles of Bureau of Reclamation project purpose infrastructure (including river channel, levees, canals and bridges) required to meet Colorado River water delivery obligations to U.S. and Mexico water users. H.R. 1505 would likely have a significant impact on Interior's ability to carry out our overall mission related to protection of natural and cultural resources on our federally managed and trust lands.

In addition, authorized users of public lands may be affected by the immediate access provision. Without prior notice or a public review process, border security activities on federal lands managed by Interior, may compromise the safety of both visitors and agency law enforcement personnel.

We believe a better model for the protection of the border is the current approach of collaborating among Departments and using the best expertise in each to solve problems.

Memorandum of Understanding

Federal agencies with law enforcement presence on federal lands along the borders include DHS' Office of Border Patrol (Border Patrol), a component of CBP; Interior's various Bureaus, the BLM, NPS, FWS, and, in certain circumstances, the BIA; and the U.S. Department of Agriculture's (USDA's) U.S. Forest Service (USFS). These agencies have developed a cohesive, cooperative approach to border security.

In March 2006, Interior, DHS, and USDA entered into a Memorandum of Understanding (MOU) entitled *Cooperative National Security and Counterterrorism Efforts on Federal Lands along the United States' Borders*. This MOU provides the Departments with goals, principles, and guidance related to securing the borders, addressing emergencies involving human safety, and minimizing the environmental damage arising from illegal cross-border activities on federal lands. The MOU contains provisions related to the development of an efficient means of communication, cooperative identification of patrol routes and operations, conduct of joint enforcement operations, cooperation in the development of environmental and cultural resources awareness training, access by CBP agents to federal lands along the border (including access in exigent circumstances), and guidance on construction and maintenance of tactical infrastructure. And it addresses expedited completion of environmental compliance documents, including documents required by the National Environmental Policy Act and the Endangered Species Act.

Our goal is to provide flexibility and realistic options for patrol and infrastructure access to Interior lands by CBP while continuing to maintain an emphasis on protection of federal trust resources such as endangered species, cultural resources, tribal interests, national wildlife refuges, national parks, public lands, and designated wilderness. We believe the guidelines contained in the MOU have been effective in providing both Interior and CBP with the necessary framework to strike this important balance. This MOU has not in any way impeded or impacted DHS's ability to protect the border, including in exigent circumstances. Since entering into this MOU, the three Departments have continually and successfully worked together to carry out the tenets outlined in the MOU at both the Headquarters and the field levels, and have worked to address concerns regarding coordination to continually improve our efforts to secure our borders while conserving the environment.

Coordinated Federal Responses to Illegal Activity on Federal Lands

Regular Management Collaboration

In order to facilitate efforts with the Border Patrol to address the challenges presented by illegal cross-border activity on our lands, Interior has established at the headquarters level a department-wide coordination structure. This includes the establishment, within Interior's Office of Law Enforcement and Security, of a Border Management Branch that comprises a full-time Branch Chief, an Interagency Borderlands Coordinator for environmental coordination, a Southwest Border Coordinator in Tucson, Arizona, and a Northern Border Coordinator in Spokane, Washington. The primary function of these positions is to coordinate and collaborate with Border Patrol Sectors and Interior agency representatives on a regular basis. Further facilitating

this collaboration, the Border Patrol has agreed to co-location of these Interior field coordinators in applicable Border Patrol Sector offices.

Additionally, at the headquarters level, Interior, USDA, and DHS have formed an interagency Environmental and Cultural Stewardship Training task force to build on existing environmental and cultural training for Border Patrol agents whose patrol activities include federal lands. A first product resulting from this effort is being field tested in the coming weeks and is expected to be operational this fall. The training will consist of a two-hour, on-line training module to be provided to each Border Patrol agent annually.

On the Ground Collaboration

This collaborative effort is also taking place with the Border Patrol in the field. The Border Patrol, in cooperation with Interior and USDA, established a Public Lands Liaison Agent (PLLA) position in each of its 20 Sectors. Interior land managers communicate and collaborate on issues of mutual interest or concern with these PLLAs on a regular basis. Meetings between the land managers and the PLLAs are held every few months, or as needed, to facilitate open and regular communication, cross-training, and sharing of intelligence.

In addition, Border Patrol agents frequently conduct joint patrols with Interior law enforcement personnel on Interior lands, including national parks, wildlife refuges, and public lands. This close coordination provides staff with training and orientation on each agency's mission, while enhancing homeland security activities and resource-related investigations.

Recently, in the Tucson Sector, joint law enforcement patrol operations were conducted during anticipated peak periods of illegal activity, from January to March 2011, under *Operation Trident Surge*. The operation included the BLM, NPS, FWS, USFS, and the Border Patrol, and consisted of intelligence-supported joint patrols on Interior and USFS lands that were designed to reduce border-related crime and provide additional intelligence to Border Patrol to identify and target Alien Smuggling Organizations and Drug Trafficking Organizations operating on federal lands. Interior officers focused on resource mission-related violations during this operation. This effort served to deter illegal smuggling into the United States. We additionally are continuing to conduct joint operations under *Operation Trident*.

Shared Intelligence Assessments

With respect to coordinating on intelligence assessments at the field level, the Border Patrol Spokane Sector Intelligence Unit regularly provides briefings and intelligence to Interior law enforcement personnel about current threats and activities on federal lands. This coordination has led to joint Interior-Border Patrol patrols by field personnel and has enabled training and orientation activities on each agency's mission, while enhancing homeland security and resource-related interdictions and investigations.

Similarly, in California, the Border Patrol El Centro Sector and the BLM have coordinated on *Operation Take it Outside*, conducted throughout 2010. This operation allowed for the gathering of intelligence regarding smuggling organizations and traffic patterns that can be used to develop future operational plans and strategies in the area.

These few examples are just a sampling of the ongoing, collaborative dialogue and strong relationship that Interior agencies and personnel have developed with our colleagues in Border Patrol. As discussed in more detail below, the cooperation and collaboration evident in these operations across the border areas, including areas within national parks, wildlife refuges, and public lands, has led to reduced environmental impacts on federal lands along the border.

Addressing the Impacts

The deployment of CBP personnel, equipment and infrastructure along the southwest border has led to significant improvements in border security. We are very pleased with these improvements because of the enhanced security to our Nation, and also because these efforts lead to overall healthier conditions on Interior lands along the border. Many of the natural and cultural resources under Interior's responsibility have been adversely affected by illegal activities due to accumulations of trash, establishment of illegal roads and trails, and overall degradation of the environment. By deploying personnel, equipment, and infrastructure, CBP operations have reduced cross-border illegal activity and the environmental impacts of this illegal activity in a number of areas.

During this deployment of additional border security resources, we have worked closely with CBP to avoid or mitigate impacts to the environment from CBP actions. DHS has worked closely and well with Interior and USDA to attempt to offset these impacts through mitigation and coordination with federal land managers to conduct field operations in a manner that avoids or minimizes the impact of those operations on federal lands. These mitigation activities have had no impact on the ability of DHS to protect the border.

We have made and are continuing to make significant progress and we recognize DHS's leadership on these issues.

Conclusion

Unlike the proposed legislation, DHS has only exercised its existing waiver authority in limited circumstances, and after careful consideration. Existing laws ensure that federal and state resources management agencies and the local communities are engaged to carefully identify natural, biological and cultural resources potentially affected by border security activities and to reduce and mitigate impacts to these resources.

As detailed in this testimony, we are committed to the collective efforts that Interior, DHS, and USDA have taken to meet the intent of the 2006 interagency MOU and the shared commitment by our Departments to accomplishing the missions of our agencies. We believe that we can both secure our borders and conserve our federal lands under the existing legal framework.

Chairman Bishop, I want to thank you and the Members of the Subcommittee for your continued interest in the Administration's efforts to secure and protect the border region and its natural resources.

This concludes my statement, and I am happy to answer any questions that you might have.