

Subcommittee on Oversight and Investigations

Louie Gohmert, Chairman

Hearing Memorandum

April 26, 2016

To: All Subcommittee on Oversight and Investigations Members

From: Majority Committee Staff
Subcommittee on Oversight & Investigations, x5-7107

Hearing: Oversight hearing titled “*The Consequences of Federal Land Management along the U.S. Border to Rural Communities and National Security*”

The Subcommittee on Oversight and Investigations will hold an oversight hearing on “*The Consequences of Federal Land Management along the U.S. Border to Rural Communities and National Security*” on **April 28, 2016** at **2:30 p.m.** in **Room 1334 Longworth House Office Building**. The hearing will focus on the challenges to maintaining rural communities and securing the border under federal land management regimes.

Policy Overview

- Rural counties face significant challenges to fund public responsibilities due to policies that impede financial autonomy and are hostile to historic local industries that built communities.¹
- The United States Border Patrol faces significant impediments to securing the border due to enforcement of land management regulations resulting in areas hospitable to smuggling operations and environmental degradation.
- Borderland communities are left vulnerable to illegal cross border activity,² as vast expanses are left unpatrolled because Border Patrol has moved security infrastructure further from the border.
- Despite a 2006 Memorandum of Understanding between the Department of Homeland Security, the Department of Agriculture and the Department of the Interior, which is designed to facilitate cooperation and communication between the agencies, permits are needed to effectively patrol the border and can take years to be issued by land managers³ if they are granted at all.

¹ “[Forest Funds: Often mentioned in county and school district budgets--what exactly are they?](#)” *Newsbf.com*. 5 March 2015.

² Villagran, Lauren. “[NM Ranchers Outraged by Lack of Security at Border](#).” *Albuquerque Journal*. 8 March 2016.

³ *Installation of Radio Repeaters at Cabeza Prieta National Wildlife Refuge*. U.S. Fish and Wildlife Service. 11 April 2016.

Witnesses Invited

Mr. Jon Andrew
Interagency Borderland Coordinator
U.S. Department of the Interior
Washington, D.C.

U.S. Department of Homeland Security [**Declined To Provide Witness**]
Washington, D.C.

Ms. Sue Chilton
Chilton Ranch
Arivaca, AZ

Ms. Tricia Elbrock
Animas, NM

Mr. LeAlan Pinkerton
Commissioner, Boundary County
Bonners Ferry, ID

Ms. Nan Stockholm Walden
Vice President and Counsel
Farmers Investment Co., and Green Valley Pecan Co.
Sahuarita, AZ

Background

Border Security on Federal Land

The United States Border Patrol is charged with securing the border with Canada and Mexico containing hundreds of miles and millions of acres of federal land. Over 40% of the Southern border is managed by the Department of the Interior and the Forest Service.⁴

Congress mandated that the Border Patrol achieve “operational control” of the international borders of the United States. Operational control is defined in statute as “the prevention of all unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband.”⁵ While Congress has authorized large increases in manpower and equipment for the Border Patrol, it has left regulatory obstacles in their path which make operational control less attainable.

⁴ [Southwest Border: More Timely Border Patrol Access and Training Could Improve Security Operations and Natural Resource Protection on Federal Lands](#). U.S. Government Accountability Office. October 2010. Page 1.

⁵ Public Law 109-367 Section 2(b)

There are many obstacles to achieving operational control on federal lands, including the remote and rugged nature of the property. Federal lands are targeted by criminals for drug smuggling, human trafficking, illegal immigration, potential terrorist movement, and other violent crimes such as murders, rapes, robberies, and kidnappings.⁶

Another impediment to securing the border continues to be the lack of access granted to agents on federal land. A turf war between the Border Patrol and federal land managers within the Department of the Interior and the Department of Agriculture places national security at risk. Currently, land management bureaus have the power to thwart border security activities under authorities created by environmental laws such as the Wilderness Act and the Endangered Species Act. These laws effectively block the Border Patrol from taking the actions needed to protect federal lands and control the border, as drug smugglers and human traffickers are left to enter the country undeterred.

On federal land, the Border Patrol must obtain permission place monitoring equipment, to move equipment, to place temporary camps nearer to the border, and even to maintain roads.⁷ Land managers can take months to grant these authorizations to Border Patrol. At times, permission is not given leaving heavily trafficked areas unprotected.⁸

A 2006 Memorandum of Understanding (MOU) agreed to by the Department of Homeland Security, the Department of the Interior, and the Department Agriculture sought to facilitate communication, coordination and access to federal lands.⁹ Despite good intentions, the MOU lacks any mechanism to enforce accountability and distinct interpretations of the language within the MOU have continued to delay security access to federal land. Land managers are able to make financial demands in exchange for access shifting federal funds between agencies outside the appropriations process.¹⁰

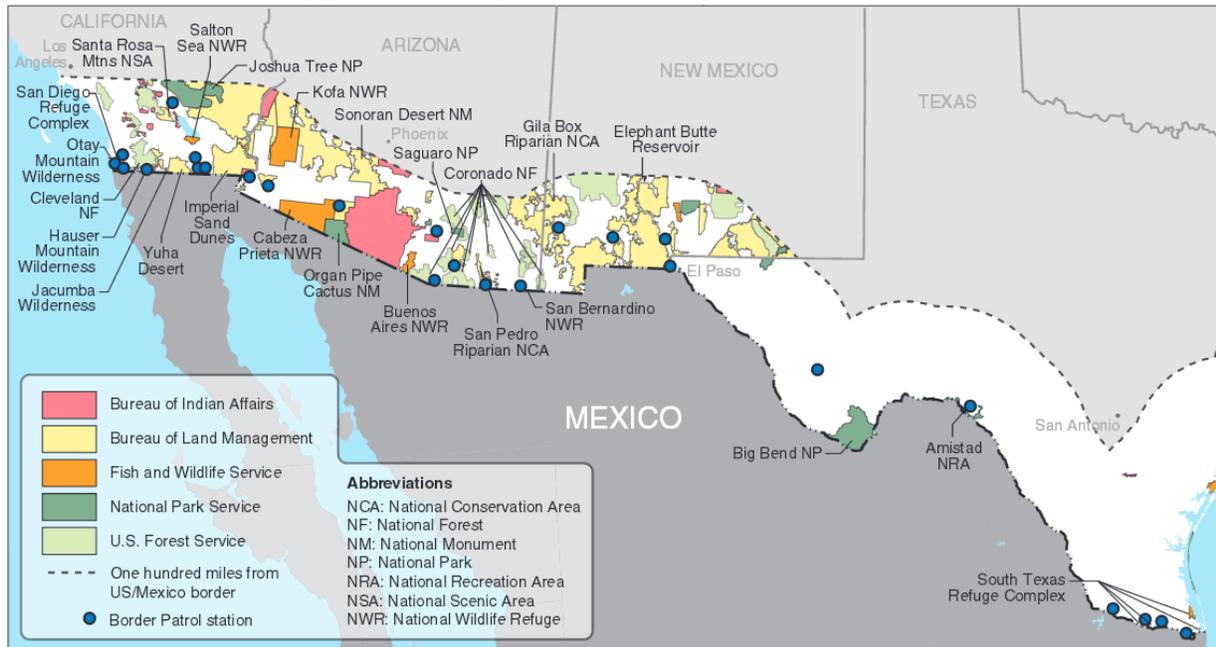
⁶ Kendall, Mary L. [*Inspector General's Statement Summarizing the Major Management and Performance Challenges Facing the U.S. Department of the Interior*](#). Office of the Inspector General, U.S. Department of the Interior. 10 November 2015. Page 64.

⁷ [*Southwest Border: More Timely Border Patrol Access and Training Could Improve Security Operations and Natural Resource Protection on Federal Lands*](#). U.S. Government Accountability Office. October 2010. Page 13.

⁸ *Ibid*, pages 28-33.

⁹ [*Memorandum of Understanding Among U. S. Department of Homeland Security and U. S. Department of the Interior and U. S. Department of Agriculture Regarding Cooperative National Security and Counterterrorism Efforts on Federal Lands along the United States' Borders*](#). March 2006.

¹⁰ [*Southwest Border: More Timely Border Patrol Access and Training Could Improve Security Operations and Natural Resource Protection on Federal Lands*](#). U.S. Government Accountability Office. October 2010. Page 56.



Sources: United States Geological Survey and GAO.

Nearly unfettered access onto our federal borderlands by illegal border crossers has damaged natural and cultural sites.¹¹ Tons of litter and other biological pollutants are left behind as illegal traffic tramples federal property.¹² Cartels and smugglers are not known for their adherence to environmental law, but the Border Patrol is bound by the restrictions mandated to them by federal land managers.

The Government Accountability Office (GAO) confirmed that illegal border crossers are responsible for significant fires on federal lands near the border.¹³ These fires devastate the environment and destroy livelihoods. The wildfires in Arizona during the summer of 2011 saw hundreds of thousands of acres scorched, leaving private homes and ranches in ruins. Taxpayers are left to pick up the tab for tens of millions in fire suppression costs and yet the smugglers continue to cross federal lands unabated.¹⁴



¹¹ [“State of the Park Report for Organ Pipe Cactus National Monument.”](#) *State of the Park Reports*. U.S. National Park Service. Updated November 27 2015.

¹² [“Illegal Immigrants Trash Border Lands With Tons Of Waste.”](#) *Judicial Watch*. 1 February 2012.

¹³ [Arizona Border Region: Federal Agencies Could Better Utilize Law Enforcement Resources in Support of Wildland Fire Management Activities.](#) U.S. Government Accountability Office. November 2011. Page 23.

¹⁴ *Ibid*, page 41.



The Border Patrol's Tucson Sector has significant federal lands including a national monument, national refuge, national forest, BLM lands and a massive Indian reservation. For years the sector led in apprehensions¹⁵ and continues to be a favorite soft spot for illegal traffic.

Below are several examples of Tucson Sector apprehensions in recent weeks:

- April 19th: [Border Patrol Agents Assaulted; Smugglers Arrested](#)¹⁶
- April 18th: [Agents Arrest 2 Men Convicted for Sex Crimes Against Children](#)¹⁷
- March 18th: [Border Patrol Agents Seize Assault Rifle, Arrest 3](#)¹⁸
- March 16th: [Tucson CBP Arrest 2 Child Molesters](#)¹⁹
- March 2nd: [Man with Active Warrant for Felony Sex Assault Arrested](#)²⁰
- Feb 29th: [Sexual Predators Arrested by Border Patrol](#)²¹
- Feb 8th: [Border Patrol Arrests Child Molesters](#)²²

Thousands of migrants continue to die in attempts to cross the border with a strong concentration on federal land. The map shows reported migrant deaths in the Tucson Sector from 2015. Significant efforts are made by the Border Patrol and country governments to return the deceased to their families.²³

¹⁵ [Southwest Border: More Timely Border Patrol Access and Training Could Improve Security Operations and Natural Resource Protection on Federal Lands](#). U.S. Government Accountability Office. October 2010. Page 5.

¹⁶ Ronquillo, Ina. "[Border Patrol Agents Assaulted by Smugglers; Smugglers Arrested](#)." *KGUN9 On Your Side*. 19 April 2016.

¹⁷ "[Agents Arrest 2 Men Convicted for Sex Crimes Against Children](#)." *Douglas Dispatch*. 20 April 2016.

¹⁸ "[Border Patrol Agents Seize Assault Rifle, Arrest 3](#)." *U.S. Customs and Border Protection*. 21 March 2016.

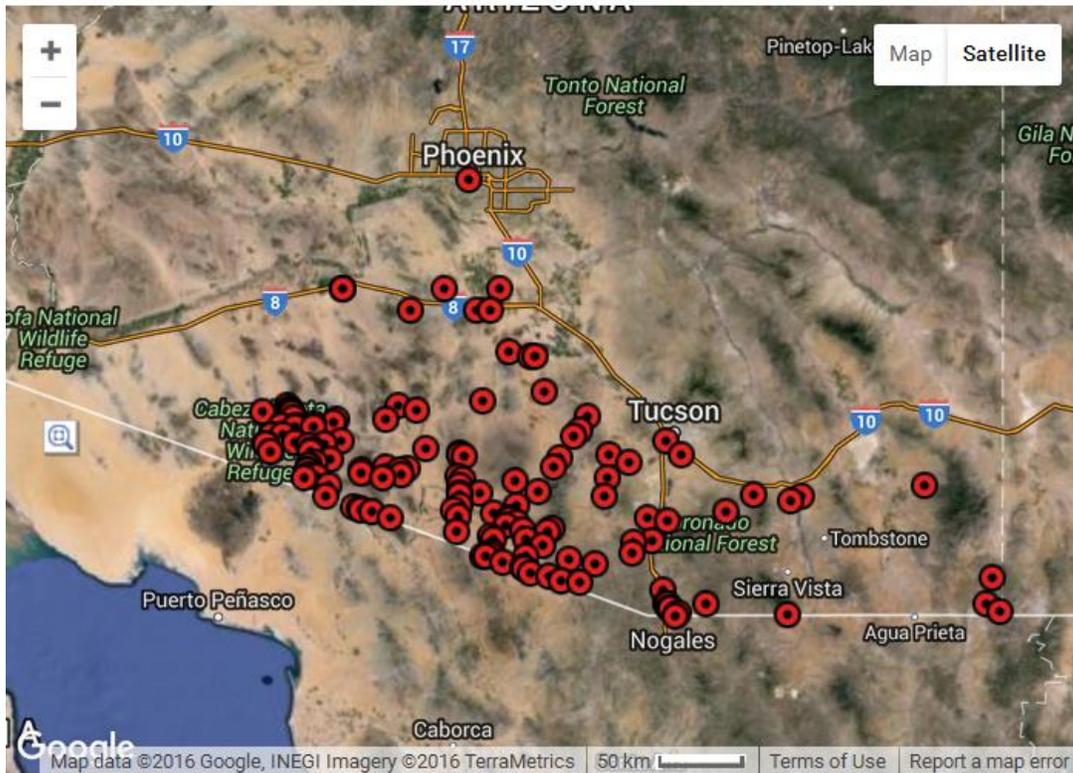
¹⁹ "[Tucson CBP Arrest 2 Child Molesters](#)." *Arizona Daily Independent*. 17 March 2016

²⁰ "[Man with Active Warrant for Felony Sex Assault Arrested](#)." *Yuma News Now*. 5 March 2016.

²¹ "[Sexual Predators Arrested by Border Patrol](#)." *Arizona Daily Independent*. 1 March 2016.

²² "[Border Patrol Arrests Child Molesters](#)." *U.S. Customs and Border Protection*. 8 February 2016.

²³ "[Missing Migrant Team Attempting to Reunite Remains with Next of Kin](#)." *U.S. Customs and Border Protection*. 16 March 2016.



<http://www.humaneborders.info/app/map.asp>

Challenges to Federal Land Communities

Rural communities particularly in the West have survived by providing the country with food and other resources by working federal lands. However, these communities face increased pressures from the government and outside entities that make it increasingly unsustainable to provide basic necessities.

Many communities built economies around timber harvesting on federal lands. As regulations restricted the industry communities were left with significant revenue shortfalls and depressed economies. Although some relief has been provided the lack of surety does make up for the damage caused by draconian regulation.

Ranchers have also faced increasing pressures due to regulations and reduction of grazing permits.²⁴ As these challenges mount, rural communities are unable to support services, such as schools.²⁵ Ultimately, families are forced elsewhere and once vibrant towns are depleted.

²⁴ Keyes, Jamie. “[Endangered Species Act: How it Affects Rangelands.](#)” *Extension*. 18 November 2015.

²⁵ “[Officials Worry Schools Will Close Due to Population Drop.](#)” *KSL.com*. 14 June 2015.