

Statement of Brandon Judd
On Behalf of the National Border Patrol Council
Before the U.S. House of Representatives Committee on Natural Resources
Subcommittee on Oversight and Investigations Republican Forum
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Ranking Members Westerman and Gosar, and distinguished Members of the Subcommittee, I would like to thank you for inviting me to testify before you today in order to communicate the significant challenges that our nation's Border Patrol Agents are facing, specifically when patrolling on federal lands.

My name is Brandon Judd and I currently serve as the President of the National Border Patrol Council, where I represent approximately 16,000 Border Patrol field agents and support staff. I have more than 23 years of experience as a Border Patrol Agent and a thorough understanding of the policies affecting border security.

I know that both the Subcommittee and full Committee have been working for years to address the issues before us today and I am grateful for your continued oversight and steadfast dedication to solving these problems. Thank you for allowing me the opportunity to describe the current state of the border and how the myriad of laws, regulations and bureaucratic policies related to federally managed and protected lands prevent Border Patrol Agents in the field from fully doing their job on a daily basis. Ultimately, these laws undermine our ability to effectively and efficiently secure our borders and put the lives of our agents and the public at greater risk.

As the Subcommittee is undoubtedly aware, the vast majority of apprehensions made by the Border Patrol occur on our southern land border with Mexico. Since January of this year, the Border Patrol has faced a historic surge of illegal border crossings and has made approximately 648,629 apprehensions along the Southwest border, and approximately 649,000 apprehensions nationwide. Based on this data, approximately 99.94% of all Border Patrol apprehensions in the past four months occurred along our southern land border with Mexico.

Along this very same border, roughly 40 percent of the land that makes up our 2,000 mile-long border is designated by the federal government as some type of federal land, according to a Government Accountability Office analysis. This is land that is managed, controlled or protected by multiple agencies, spread across two separate cabinet-level departments, not including the Department responsible for border security.

Simply looking at a map of border areas in California, Arizona, New Mexico and Texas, one will see a landscape blanketed by federal lands that include National Conservation Areas, Forests, Monuments, Parks, Recreation Areas, Scenic Areas, and Wildlife Refuges. The restrictions that agents face on these lands on a daily basis are due to a laundry list of some three dozen laws that date back over a century.

Former President Trump recognized the significant impediments to our work stemming from these legal requirements and regulations and, in his very first week in office, signed Executive Order 13767 to improve border security and immigration enforcement. Most relevant for the Subcommittee was Section 12 of the Order which directed the Secretaries of Homeland Security, the Interior and Agriculture to "take all appropriate action" to ensure that the men and women of the Border Patrol have access to all federal lands in order to secure our land borders.

Unfortunately, President Biden revoked EO 13767 when he signed EO 14010 on February 2 of this year. President Biden's executive action is a step backwards and only makes it more difficult for Border Patrol Agents to do our jobs. It is worth noting that even former President Obama's Homeland Security Secretary Janet Napolitano acknowledged the significance of the problem when she wrote in a 2009 letter that:

*"While the USBP recognizes the importance and value of wilderness area designations, they can have a significant impact on USBP operations in border regions. This includes that these types of restrictions can impact the efficacy of operations and be a **hindrance to the maintenance of officer safety**. The USBP, in accordance with [a] 2006 MOU [with DOI and USDA] makes every reasonable effort to use the least impacting means of transportation within wilderness; however along the southwest border it can be **detrimental to the most effective accomplishment of the missions**. For example, it may be **inadvisable for officer safety to wait for the arrival of horses for pursuit purposes, or to attempt to apprehend smuggling vehicles within wilderness with a less capable form of transportation.**"*

While the "detrimental" impact to the border security mission is certainly concerning when reading former Secretary Napolitano's letter, what I'd like the Subcommittee to focus on for a moment are the real-life implications for agent safety – something that should be of paramount concern to everyone. To ever suggest that an agent – who is likely working alone, probably on terrain making he or she vulnerable to attack, and almost certainly in a remote location – should wait for the arrival of agents mounted on horses in order to safely make an apprehension of an illegal entrant **is completely and utterly absurd**. I hope that the Subcommittee would never tolerate policies of this nature and allow senior agency bureaucrats in Washington to prioritize possible impacts on the environment over the safety of the men and women of the Border Patrol.

It is these remote locations, referenced above, where I'd like to direct the Subcommittee's attention. Over the past four months, much of the focus surrounding the crisis at the southern border has been related to unaccompanied children and families crossing our border illegally. These children and families typically cross the border in more populated areas near cities and towns. During the past four months of this crisis, it has not just been children and families crossing the border. In fact, for the months of January through April of 2021, the Border Patrol has estimated that approximately 120,000 individuals have evaded apprehension or "got-away." These got-aways are typically individuals who are doing everything they can to avoid detection and apprehension because they either have a criminal record, are smuggling illegal narcotics or weapons or are aliens from special interest countries such as Afghanistan. These individuals pose a significant threat to public safety, public health and national security, and will often choose remote locations, such as protected wilderness, federal lands or a national forest or park along our border to illegally enter our country. These vast areas provide transnational criminal organizations significant opportunities to cross their products and are incredibly challenging to patrol due to our personnel shortages, only exacerbated by the current crisis, and further complicated by the added burdens created by environmental laws, regulations and memos drafted by supervisors and managers sitting behind desks.

As Ranking Member Westerman has seen first-hand, the challenges created by these legal requirements, rules and policies are very real for those patrolling our borders. On the Ranking Member's past trip to the Coronado National Forest within the Tucson Sector of Arizona for example, we saw how the inability to build proper access roads along and near the line, including secondary roads, diminished agent mobility while patrolling and ultimately prevented agents from being as effective as they could otherwise be. While this was a problem for many years, under former President Trump we saw significant investments in physical infrastructure made in this area to address these longstanding challenges. Unfortunately, infrastructure in this area has not been completed because of President

Biden's decision to stop the construction of physical infrastructure along our border. The problems and vulnerabilities that have persisted in these areas will only continue until construction is completed.

While my primary concern is overall border security including the safety of agents and the public, I'd like to highlight for the Subcommittee how unintended consequences stemming from environmental laws meant to protect our natural resources can have the opposite effect and actually harm the environment.

For example, in one of my personal experiences in the mid-2000s in the Naco Area of Operations within the Tucson Sector, the Border Patrol built a continuous fence that was constructed right up to the San Pedro River within the San Pedro National Conservation Area. This conservation area runs north from the border and is made up of approximately 57,000 acres of public land, managed by the Interior Department's Bureau of Land Management. While we were able to continue with the construction of the fence to the west of this sensitive riparian area, due to legal restrictions, we had to wait to complete construction within the conservation area until we had the required permitting and the environmental impact studies were complete. During this long waiting period, the massive hole left in our fencing allowed criminal enterprises to drive their vehicles up the riparian area along and near the riverbed, with absolutely no regard for this environmentally sensitive area. While we now have some barriers in place that make it a little more difficult for criminal enterprises to spoil this riparian area, due to the difficulty of the laws the barriers are a far cry from what's needed and are easily defeated.

Tactical infrastructure and barriers, such as the fencing in Naco, are crucial to preventing illegal entries and securing our border. While there has been no shortage of debate and controversy over border wall construction, in my opinion serving in the Border Patrol for the past 20 years, including in the busiest sector in the history of the Border Patrol, a wall, in strategic locations is pivotal to securing our border. Without physical barriers, such as a wall, we're far less able to dictate and direct where illegal entries are made, making us less effective and inefficient. A wall in strategic locations will ultimately lead to far greater effectiveness and allow us to direct our very limited personnel resources to areas without barriers and where illegal crossings are more likely to take place. When plans and efforts to build physical barriers are blocked, delayed or otherwise stopped because of these environmental laws, then the safety and security of our agents and citizens will suffer greatly.

Finally, I'd like to close by urging Congress and the Committee to consider and pass legislation that would solve these very real problems. Ranking Members Westerman and Gosar, I would like to commend you both for your efforts and work with Congressman Mike Johnson to pass legislation that would ensure Border Patrol Agents have the ability to properly patrol federal wilderness areas and prevent all unlawful entries into the U.S. By thoughtfully eliminating the restrictions imposed on the Border Patrol while on protected federal lands, there is no doubt that this legislation will allow us to more effectively do our jobs and prevent illegal entries into our country.

I want to thank the Subcommittee for your time this morning and I look forward to answering any questions that you may have.