

**Statement of  
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**Before the  
Subcommittee on National Parks, Forests and Public Lands  
Committee on Natural Resources  
U. S. House of Representatives**

**July 8, 2011**

**Concerning: H.R. 1505, a bill to prohibit the Secretaries of Interior and Agriculture from taking action on public lands which impede border security on such lands, and for other purposes.**

Chairman Bishop, Ranking Member Grijalva and members of the Subcommittee, thank you for the opportunity to appear before you today to provide the Department's views on H.R. 1505, a bill to prohibit the Secretaries of the Interior and Agriculture from taking action on public lands which impede border security on such lands, and for other purposes.

H.R. 1505 would waive the requirement for the Department of Homeland Security (DHS) to comply with the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and some two dozen other environmental laws. In a practical sense it would allow DHS to build roads, fences, and towers and allow regular patrols on all lands managed by the Departments of Agriculture and Interior without consultation or approval of other federal agencies within one hundred miles of the International border.

As background, DHS carries out a number of its border enforcement activities on federal land. A 2006 Memoranda of Understanding (MOU) between DHS and the Departments of Agriculture and Interior outlines roles and responsibilities between the land management agencies and DHS regarding border security activities, including the construction of border infrastructure and law enforcement operations, including patrols. In 2008, DHS, DOI and USDA signed an MOU to bridge communication gaps and provide radio interoperability between Border Patrol agents and their law enforcement partners in DOI and USDA. Since the signing of the 2008 MOU, a primary repeater channel has been designated, and a common encryption key has been created and distributed to all Border Patrol agents and DOI and USDA law enforcement personnel. This interoperability is imperative to the success of our cooperative efforts along the border.

The DHS Secretary has utilized the waiver authority on five separate occasions to expedite the construction of needed border infrastructure, including border infrastructure on federal land. H.R. 1505, without the need for any further action by the Secretary of Homeland Security, would extend the waiver itself to all areas within 100 miles of the nation's land or maritime boundaries. In addition, H.R. 1505 specifies that the waiver would apply to all DHS activities that assist in securing the border, including the construction of border infrastructure as well as patrol and surveillance of the border.

We recognize that there are still significant security and law enforcement issues along the border. To date in Fiscal Year 2011 approximately 7,000 undocumented aliens have been apprehended and 76,000 pounds of marijuana have been seized on or around the Coronado National Forest. Wildfires occur near the U.S./Mexico border where there is heavy cross border traffic. During Forest Service investigations of these fires a great deal of information is collected, much of which is inconclusive or circumstantial in nature. A specific cause for the fire can be determined in some cases and in other cases, a specific cause cannot be determined. Forest Service investigations may or may not conclusively identify a person or persons responsible for the fire. We have been asked specifically if fires are related to cross border activities. What we can tell you is that from 2002-2011 457 fires have been determined to be human-caused in the SW border area of the Coronado National Forest. Forest Service investigators have been able to identify the individuals responsible in 31 of those fires. Of those 31 fires, it was determined that undocumented aliens were responsible for starting 5.

We continue to work with DHS on the Coronado National Forest in these areas where cross-border traffic is known to occur. The U.S. Forest Service also manages land adjoining over 400 miles of the southern Canadian border. DHS reports that there continues to be a significant amount of drug trafficking via small aircraft, watercraft and over-snow vehicles along this border.

Under the DHS/DOI/USDA 2006 MOU, U.S. Customs and Border Protection (CBP) Officers and Border Patrol Agents have authority to pursue illegal activity anywhere on National Forests without receiving prior approval. Although, regular motorized patrolling is not authorized in Congressionally designated Wilderness areas, the MOU allows for motorized pursuits in exigent and/or emergency circumstances. Under this legislation, regular motorized patrolling would be permitted where physically possible. Currently, coordination and approval by the U.S. Forest Service ("USFS") is required for road, fence and tower construction and maintenance on National Forest System lands. USDA and DOI are working with DHS to continually improve our coordination in environmental reviews of these types of activities.

Regarding interagency coordination, the U.S. Forest Service has taken important and effective steps. The Memoranda of Understanding previously mentioned were signed in 2006 and 2008. These MOUs are helping to enable interagency cooperation, improve radio interoperability, and increase efficiency while protecting the environment. USFS has made border security a priority and assigned thirteen sworn officers to the "Border Zone" of the Coronado National Forest. Relative to our law enforcement workforce, this

is a significant commitment. Ten of those officers who work particularly close to the border are accompanied by canine units. In addition, the U.S. Forest Service makes all Forest Service Law Enforcement officers in New Mexico, Arizona and across the nation available to assist the officers who work on the border for special operations such as saturation patrols and drug interdiction operations. We regularly conduct joint patrol operations with CBP on the Coronado National Forest. And recently, we have been an active participant with CBP and Department of the Interior agencies in Operation Trident Surge joint patrol operations.

We have established liaison positions with CBP for both the Tucson Sector, based in Tucson, and for the Spokane Sector, based in Kalispell, Montana. The liaison positions are important for coordinating joint patrol efforts, facility development, environmental analyses, and long-term staffing needs. We are currently coordinating and supervising road maintenance work with CBP in National Forests in Southern Arizona to improve access and patrol capabilities for CBP. We are also a member of and actively participate in an interagency Border Management Task Force that, among other things, focuses on site specific problem solving as well as planning for the future.

USFS has routinely and expeditiously approved requests by DHS for forward operating bases, fixed and mobile surveillance structures, and road maintenance in the Coronado National Forest. USFS has granted these requests notwithstanding that the Coronado National Forest is home to the highest number of threatened, endangered and sensitive species of any National Forest in the continental United States. There are 25 listed threatened or endangered species and 162 sensitive species on the Coronado National Forest.

Border issues continue to be a focus and priority for the U.S. Forest Service. Recently, Forest Service Chief Tom Tidwell visited with CBP Tucson Sector Chief Randy Hill to examine the challenges first-hand. The most important objective is to have a safe, secure and accessible border region. Chief Tidwell recommitted the U.S. Forest Service to work expeditiously in assisting the CBP to ensure they have the support and access they need consistent with applicable laws.

In closing, securing our borders and addressing impacts to our public lands are both critically important goals that need not conflict. A well protected border means a better protected forest with diminished environmental impacts. Securing our border and protecting the environment go hand in hand. The U.S. Forest Service is continually improving our coordination with DHS and DOI to accomplish these objectives.

While we appreciate the Subcommittee's attention to this important issue, the Administration opposes the legislation because of the blanket waiving of environmental laws, which creates a false choice between environmental protections and securing our borders. In addition, we do not see the need for this legislation. While there is always room for greater efficiency in how we conduct environmental reviews and coordinate with DHS, USDA is already working with DHS to make improvements, and will continue to make improvements administratively to facilitate DHS efforts to protect our

borders. This concludes my statement and I would be happy to answer any questions you may have.