

June 24, 2008

To: Management Team, Organ Pipe Cactus National Monument

From: Lee Baiza, Superintendent Organ Pipe Cactus National Monument-  
Suzy Stutzman, IMR Lead Planner/Wilderness Coordinator

Subject: Talking points regarding Department of Homeland Security structures and activities within wilderness, minimum requirements, cumulative impacts

Congress has directed the Department of Homeland Security (DHS) to construct a number of types of barriers along the U.S. – Mexico border to improve national security. Congress also created the National Wilderness Preservation System, and the National Park Service is obligated to manage the Organ Pipe Cactus Wilderness for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use as wilderness to meet the intent of Congress. DHS may be proposing a number of installations and activities associated with the implementation of the SBI initiative, within the Organ Pipe Cactus Wilderness that are prohibited within wilderness. If the DHS facilities and activities are located outside of but immediately adjacent to wilderness, there are still concerns about the impacts to wilderness character.

**The Wilderness Act of 1964 contains a prohibition of certain uses in Section 4 (c):**

PROHIBITION OF CERTAIN USES

(c) Except as specifically provided for in this Act, and subject to existing private rights, there shall be no commercial enterprise and no permanent road within any wilderness area designated by this Act and, except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.

**Permanent Roads are Prohibited.** The Wilderness Act is very explicit about the types of activities, facilities and installations that are prohibited in wilderness. Permanent roads are prohibited, and are not even covered by the possibility of exception as a “minimum requirement.” Another associated factor in the tentative DHS proposal is for an all-weather surfaced roads to provide service to the proposed camera towers and supporting buildings and equipment. An all-weather surfaced road even if it remains unpaved, is a permanent road and outright prohibited.

**Minimum Requirements Concept.** DHS may also be proposing a number of radio repeater installations, 60 to 120-foot camera towers each with a supporting building, generator, propane tank, and perhaps temporary or possibly permanent roads. Further, the roads (even if temporary) which would support the camera towers are intended to be serviced by motor vehicles, motorized equipment, and/or mechanical transport. These are all installations, structures, and activities that are generally prohibited “except as necessary to meet minimum requirements for the administration of the area for the

purpose of this Act.” The concept of minimum requirements is tied to evaluating exceptions that are necessary to administer the area as *wilderness*. This is a very important point. Some people mistake “minimum requirements” for “minimum tool” and immediately work on finding the way to accomplish some exception to the Wilderness Act with the least impact. The first and most important question to ask when considering and exception to the prohibitions in Section 4 (c) is: “is it necessary for the administration of the area for the purpose of this Act?”

**Purpose of the Wilderness Act.** The purpose of The Wilderness Act is to create a National Wilderness Preservation System that shall be administered “for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use *as wilderness*, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness...” (Section 2 (a) emphasis added).

Wilderness is further defined in Section 2 (c) of the Wilderness Act:

#### DEFINITION OF WILDERNESS

(c) A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

**The First Question.** Are the proposed DHS structures, installations, and activities necessary for the administration of the area for the purpose of the Wilderness Act? Congress has directed the construction of these facilities and there is a compelling national security issue, but these towers, buildings, and associated equipment and motorized activities within Congressionally designated wilderness would be contrary to protecting the primeval character of wilderness, and hence contrary to the intent of Congress. These DHS proposals would not preserve natural conditions, would make the imprint of man's work substantially noticeable, would substantially reduce opportunities for solitude or a primitive and unconfined type of recreation, and would impair these areas from their future use and enjoyment of the American people as wilderness.

As the answer to the first question is that the DHS proposals do not fall under the exceptions to the prohibitions of use in Section 4 (c) of the Wilderness Act, and are prohibited. There is no reason to move into the second step of minimum requirements analysis. If there would be some exception that is determined necessary, the second part

would be to develop alternatives and determine the minimum activity and mitigating measures.

**Cumulative Impacts.** As we continue to work with DHS to locate these facilities and activities outside of wilderness, there are also many concerns with cumulative impacts to adjacent wilderness that must be evaluated in an environmental document and mitigated. The National Park Service is obligated to protect these units of the National Wilderness Preservation System, and keep them unimpaired as wilderness. In evaluating impacts and developing mitigations, these aspects of wilderness character are important to consider:

**Wilderness Character**

Describe the effects of each alternative on the preservation of wilderness character in terms of the four qualities listed below. Determine if there will be effects that will prevent the wilderness from remaining unimpaired for the future use and enjoyment as wilderness.

**“Untrammeled”**

Discuss the degree to which the components or processes of ecological systems are intentionally controlled or manipulated.

**“Undeveloped”**

Identify how “the imprint of man’s work will remain substantially unnoticeable” and wilderness will continue to be in contrast to other areas of “growing mechanization.” Include the effects of the use of any motorized equipment, mechanical transport, structures or installations on maintaining the undeveloped quality of wilderness character.

**“Natural”**

Describe the potential for protection, impairment, or restoration of natural conditions (air, water, soil, wildlife, fish, plants, etc.) including endangered, threatened, or rare species, natural biological diversity, and self-regulating ecosystems.

Discuss effects related to protecting natural conditions within the regional landscape (i.e. insects, disease, or non-native species).

**“Outstanding opportunities for solitude or a primitive and unconfined type of recreation”**

Identify how opportunities for visitors to experience solitude or a primitive and unconfined type of recreation will be protected or impaired.

Describe the effects that will be noticeable to the visitor and that could affect their experience in wilderness. Include effects on visitors from the use of motorized equipment, mechanical transport, landing of aircraft, structures, or installations.

Reference; additional guidance on impact analysis (including cumulative impacts and impairment) in the *NPS Director’s Order 12, Environmental Impact Analysis*, and related *Handbook for Environmental Impact Analysis*, which can be found at:

<http://data2.itc.nps.gov/npspolicy/DOrders.cfm>