

# The National Security and Federal Lands Protection Act

H.R. 2398

## FACT SHEET:

The U.S. Department of Interior and the U.S. Department of Forestry are utilizing environmental policies to block the U.S. Border Patrol from accessing many areas, such as wilderness, along the border. These are among the most highly trafficked areas. Therefore, the Border Patrols access is necessary to gain full operational control of the U.S. Border.

### What the bill does:

- Prevents the Secretaries of Interior and Agriculture from impeding, prohibiting, or restricting the Department of Homeland Security's efforts to obtain operational control of the border.
- Provides the Department of Homeland Security with immediate access to federal lands necessary to provide the utmost security throughout the border region.
- Allows the U.S. Border Patrol to construct and maintain roads and place surveillance equipment in strategic areas that will assist in detecting and apprehending criminals.
- Allows the Department of Homeland Security to waive certain policies preventing them from obtaining full operational control of the border.

### Issue Overview – Blocking Border Patrol Access

-There are serious security gaps on federal lands along the southern and northern U.S. borders. In fact, some of the most dangerous areas along the southern border are the 20.7 million acres of Department of Interior (DOI) and U.S. Forest Service (USFS) land. This includes 4.3 million acres designated as "Wilderness areas" where the Border Patrol is generally prohibited from using motorized vehicles, constructing roads and installing security and communication structures.

-Documents show that the Department of the Interior and the U.S. Forest Service have consistently and actively taken steps that prevent the Border Patrol from accessing federal lands located throughout the border region.

-According to internal memos, DOI officials have asserted that the Wilderness Act of 1964 trumps border security legislation passed by Congress.

-Border Patrol agents are unable to do the job mandated by Congress: gain operational control over the U.S. border, simply because environmental policies are keeping them from accessing some of the most highly trafficked areas in the U.S.

-The Department of the Interior is hindering border security efforts on federal lands by preventing the use of motorized vehicles, requiring DHS to complete lengthy and expensive environmental analysis, and at times literally locking out Border Patrol agents to prevent their access to some areas. NOTE:A lock has been placed on the access road leading into the San Bernardino Wildlife Refuge, requiring border patrol agents to drive nearly an hour around the federally managed lands in order to access the other entry point.

- In an October 2009 letter, DHS Secretary Janet Napolitano illustrates the difficulty that certain environmental policies create with regards to the U.S. Border Patrol's fulfillment of their mission:

"Federal land managers understand the duties of the USBP with regard to operations on lands under their care, yet there remains a much higher level of difficulty associated with operations within wilderness and on other special land types... One issue affecting the efficacy of Border Patrol operations within wilderness is the prohibitions against mechanical conveyances (land and air). The USBP regularly depends upon these conveyances, the removal of such advantage being generally detrimental to its ability to accomplish the national security missions. 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."

-Secretary Napolitano also illustrates that the use of horseback in wilderness areas may not be the most advisable means to apprehend dangerous drug traffickers and smugglers: -“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.”

### National Security Threats

-Federal lands along the border are specifically targeted by drug smugglers, human traffickers and potential terrorists because they are remote, uninhabited and less frequently patrolled by Border Patrol agents.

-According to the Department of the Interior’s FY 2002-2003 Public Lands Threat Assessment Report:

*“Virtually all of the lands managed by Department of The Interior (DOI) along the Arizona/Mexico border are sparsely populated with easy access into the United States from Mexico. Terrorist wishing to smuggle nuclear - biological - or chemical (NBC) weapons into the United States from Mexico could use well-established smuggling routes over DOI managed lands.”*

### Violence on Public Lands along Border

-National parks, wilderness areas and forest land have become some of the most dangerous and violent areas along the border where shootings, robberies, rapes, murders, kidnappings and car-jackings frequently occur.

-Many of these areas have been rendered unsafe for entry by U.S. citizens, including land managers and employees. NOTE: Signs have been placed on public lands along the border warning that entry into the areas was unsafe due to cartel activity.

-Border patrol agents, park rangers and private American citizens have been killed by criminals crossing the border through federal lands. **For example:**

On August 9, 2002 Park Ranger Kris Eggle, age 28, was shot and killed in the line of duty while pursuing members of a Mexican drug cartel who had crossed the U.S. border into the Organ Pipe National Monument.

On January 19, 2008 Border Patrol Agent Luis Aguilar, age 31, was killed in the line of duty after being intentionally hit by a vehicle that had illegally crossed into the U.S. through the Imperial Sand Dunes (BLM land).

On March 28, 2010 Arizona Rancher Rob Krentz was shot and killed on his ranch by a person who had illegally entered and exited the U.S. through the San Bernardino Wildlife Refuge.

On December 10, 2010 Border Patrol Agent Brian Terry was shot and killed in Rio Rico with guns obtained through the fast and furious program.

### Environmental Damage

-Although DOI’s stated goal is to protect the environment, its obstruction of the Border Patrol’s enforcement operations is actually resulting in increased environmental harm because criminal trafficking operations are drawn to areas where border enforcement is hampered.

-These Wilderness areas suffer from mounds of discarded trash, dumping of toxic waste, destruction of plants, soil erosion and wildfires started by criminal cartels.

-In Secretary Napolitano’s October 2009 letter to Congressman Bishop, she notes that removing traffickers and smugglers from the protected lands will actually improve the environment: *“Overall, the removal of cross-border violators from public lands is a value to the environment as well as to the mission of the land managers. The USBP believes that operations are generally functionally equivalent to mitigation.”*

### Blocking Construction of Electronic Surveillance

-Security infrastructure enhancements, such as the virtual fence and other electronic surveillance equipment, are prohibited in wilderness areas regardless of the strategic importance of their placement.

-Barring surveillance towers from needed sites in Wilderness areas will leave large sections of the border unmonitored.

### Extorting Mitigation Funds

-Not only is DOI blocking efforts to secure the border, but it is even charging DHS millions of dollars for conducting Border Patrol operations on its land.

-DHS has paid DOI over \$9 million since 2007 to mitigate the purported “environmental damage” of protecting our border. Per a Memorandum of Agreement signed in 2009, DHS agreed to hand over an additional \$50 million for mitigation funds to DOI; however DOI has yet to disclose how exactly these funds will be used. This extortion is taking valuable money away from Border Patrol that is needed to safeguard our nation.

