

H.R. 1505 AND OTHER THREATS TO OUR BORDERLANDS

EXTREME BILLS EXEMPTING LARGE AREAS OF THE NATION FROM ENVIRONMENTAL LAWS

H.R. 1505, the so-called “National Security and Federal Lands Protection Act,” sponsored by Representative Rob Bishop (R-UT), **would explicitly exempt U.S. Customs and Border Patrol (CBP) from complying with dozens of environmental laws** on public and tribal lands managed by the Departments of Interior and Agriculture, like national parks, wildlife refuges, and forests, and Wilderness within 100 miles of our borders with Mexico and Canada.¹ The exemption includes an incredibly broad array of environmental laws – it would disregard land conservation (Wilderness Act, National Forest Management Act), biodiversity preservation (Endangered Species Act), human health (Safe Drinking Water Act and Clean Air Act), international agreements (Migratory Bird Treaty Act) and key public processes (National Environmental Policy Act).

The size and scope of this exemption go way too far

The 100-mile exemption is simply unreasonable – eighteen states would be affected, some with large areas of public and tribal lands included in this blanket exemption. The bill would apply the same excessive exemption that has caused flooding and destroyed habitat along hundreds of miles of southern border to thousands of miles of northern border, including Glacier National Park and the Arctic National Wildlife Refuge.



Glacier National Park in Montana. (Photo: NPS)

The bill would override ongoing coordination

H.R. 1505 would override multiagency coordination that has been occurring on public lands since a 2006 Memorandum of Agreement between the Departments of Homeland Security, Interior, and Agriculture that has led to increased cooperation and leveraged resources.² Such a sweeping waiver of environmental laws, especially laws such as the National Environmental Policy Act that require interagency consultation, would result in a dramatic decrease in interagency coordination, consultation and trust – all key ingredients to improving national security along our borders. Despite some delays reported due to compliance with environmental laws, 22 out of 26 Border Patrol stations on the southern border with Mexico report that the border security status (or “operational control”) of their area of operation has not been affected by land management laws.³ Instead, factors like rugged terrain—and *not* access delays or restrictions—have the highest impact on operational control.⁴ Of the four border stations that reported having been impacted, two of the stations did not even request additional resources or assistance to deal with the problem, and the two that did request help were denied by U.S. Customs and Border Patrol (CBP) because of budget constraints and other, higher-ranked priorities.⁵ And national security is better served if Border Patrol works closely with public land managers who bring extensive knowledge of terrain, weather, and resource conditions.

The bill would put Endangered Species at risk

The bill waives compliance with *all* provisions of the ESA on federal public and tribal lands within the buffer, including requirements to protect habitat critical to species survival. CBP would have the final say regarding what impacts to imperiled species are allowed, not experts at the Fish and Wildlife Service.

¹ ‘Operational control’ means prevention of unlawful entries into the US. GAO-11-573T Border Security on Southwest Federal Lands, p. 3.

² GAO-11-573T Border Security on Southwest Federal Lands, p. 7-9.

³ GAO-11-573T Border Security on Southwest Federal Lands, p. 9.

⁴ GAO-11-573T Border Security on Southwest Federal Lands, p. 16.

⁵ GAO-11-573T Border Security on Southwest Federal Lands, p. 18.

Species that would be impacted include:

In the Southwest

- Mexican spotted owl
- Desert tortoise
- Jaguar
- Ocelot

In the North

- Grizzly bear
- Canada lynx
- Pacific Salmon
- Polar bear



Canada Lynx (photo: FWS).

The bill would put valuable public lands at risk

Regardless of proximity to the border and regardless of protected status, CBP could build facilities, construct roads and fences, patrol by vehicle and aircraft, and more on public and tribal lands. These activities not only cause a wide range of damages to valuable wildlife resources, including water quality degradation, habitat fragmentation and interruption of migration pathways, they will paradoxically make the border *more accessible* to those wishing to cross illegally. Special places that would be put at risk include:

- Cabeza Prieta National Wildlife Refuge, AZ
- Lower Rio Grande Valley National Wildlife Refuge, TX
- Carlsbad Caverns National Park, NM
- Coronado National Forest, AZ
- White Mountain National Forest, NH
- Olympic National Forest, WA
- Tongass National Forest, AK
- Arctic National Wildlife Refuge, AK
- Glacier National Park, MT
- Silvio O. Conte Wildlife Refuge, MA

Rep. Bishop tried to make his bill seem more acceptable by adding a five year sunset and language he claims will protect legal uses like hunting and grazing from being kicked out by CBP, but H.R. 1505 remains an extreme overreach of power that even in five years could do serious damage to the environment on our borderlands, and there is no guarantee that these uses would not be put on the back burner or that Congress would not extend the exemption when the sunset is reached.

OTHER THREATS TO OUR PUBLIC AND TRIBAL BORDERLANDS:

Sen. McCain amendment to S. 1546, the Senate Homeland Security Authorization bill

Senator McCain's (R-AZ) amendment could severely increase CBP's environmental impact to federal public and tribal lands within 100 miles of the southwest border. While this would spare the northern border, the bill is an unnecessary overreach that would effectively exempt the Border Patrol from following environmental laws and common sense policies to protect public and tribal lands. As discussed above, cooperation to provide access is occurring and succeeding along the border. Remarkably, the amendment would give the Secretary of the Department of Homeland Security final say regarding environmental safeguards needed for activities like motorized patrol through sensitive areas and the construction of facilities on public and tribal lands.

Rep. Quayle Amendment to the H.R. 3116, the House Homeland Security Authorization bill

Representative Quayle's (R-AZ) amendment would apply to federal public and tribal lands within 100 miles of our southern and northern borders, similar to the Bishop bill. It would give CBP the ability to build roads, fences, forward operating bases and other facilities and to conduct unlimited vehicle patrols on public or tribal lands without any collaboration or consultation with federal land management agencies. Under this iteration of the attacks on borderlands, the Commissioner of CBP would have final say over whether activities are providing enough protection for the public's natural resources. Similar to H.R. 1505, it purports to protect certain uses.

Each of these bills and amendments put our delicate borderlands at risk, and none of them are necessary for the agencies that protect our borders to do their job – we urge you to oppose them.