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Their View: Border security implications of proposed wilderness

By Frank DuBois / For the Sun-News

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I am a fan of Lynn Scarlett and I have worked with her and her staff on several projects. Like her, I'm a former senior executive at the U.S. Department of Interior. I also served as a legislative assistant to former Sen. Pete Domenici and the combination of legislative and executive employment has given me experience in interpreting statutes and understanding administrative policy.

You will note that nowhere in Ms. Scarlett's op-ed (Proposed wilderness act promotes safe communities and healthy lands) does she say the Border Patrol can routinely patrol using motorized vehicles in wilderness areas, nor does she say the Border Patrol may place or use mechanized equipment in wilderness areas. Further, the items cited by her as progress were in areas other than wilderness.

The reason for this is the language in the Wilderness Act, which states "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." The statutory language couldn't be clearer.

One exception to this is "emergencies involving the health and safety of persons within the area." This language allows the Border Patrol to enter wilderness in a motorized vehicle while in hot

pursuit of a suspect. Even in these limited circumstances there was controversy, necessitating the Memorandum of Understanding (MOU). Ms. Scarlett and others are to be applauded for working

out the MOU, however, it is really a shame it was necessary.

The lesson to be learned is that even in "emergencies" land management agencies were placing burdensome restrictions on the Border Patrol. The MOU does say "CBP-BP agents on foot or on horseback may patrol, or pursue, or apprehend suspected CBVs off-road at any time on any federal lands." Our Border Patrol agents on foot or horseback versus the well-equipped drug cartels is hardly comforting.

The restrictions on the routine use of "motor vehicles", "motorized equipment" and "mechanical transport" by the Wilderness Act are there and must be considered in the context of border security and other law enforcement activities. Janet Napolitano, secretary of Homeland Security, has submitted documents to Congress stating "the prohibition of mechanical conveyances" in Wilderness is "detrimental" to the Border Patrol's ability "to accomplish the national security mission" and is a "hindrance to the maintenance of officer safety."

The language of the Wilderness Act prevents the patrolling of wilderness areas by motor vehicle and prohibits the utilization of mechanical equipment such as mobile surveillance systems and helicopters. In other words, it is a huge handicap to the Border Patrol in carrying out their mission, and it is a handicap which has resulted in tremendous resource damage and unfortunate public safety events in already existing wilderness and surrounding areas.

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It is a political decision on whether to designate an area as wilderness or some other designation which protects the resource while allowing Border Patrol access. That political decision should be made with the full knowledge of its impact on border security.

Finally, the border security issue was not "imported;" it has been discussed for three years or more. The only difference is the public and the politicians are now paying it more attention, and rightly so.

Frank DuBois is a former deputy assistant secretary of the Department of Interior, legislative assistant to Senator Pete V. Domenici and served as the New Mexico Secretary of Agriculture from 1988-2003. DeBois is a resident of Las Cruces.

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