

February 15, 2010

The Honorable Jeff Bingaman
Chairman
Energy and Natural Resources Committee
U.S. Senate
Washington, DC 20515

Re: S.1689

Dear Senator Bingaman and committee members:

It is with sincere concern that the National Association of Former Border Patrol Officers (NAFBPO) submits this written testimony to you and to the Energy and Natural Resources Committee. The purpose of this submission is to provide insight and expert opinion relating to the risks and operational difficulties that the Department of Homeland Security and the Border Patrol will encounter if Federal Wilderness is designated in Dona Ana County along the New Mexico/ Mexican border as proposed in S.1689.

In every case where similar legislation has been submitted, our organization has always called on members and associates who have had actual field experience in the geographic area impacted and in their particular area of expertise. In this case, we rely on ranking retired officers who have the most experience in the southwestern United States where the largest influx of illegal entries historically have occurred and where many years of experience has established the most effective deterrent and apprehension techniques. This approach eliminates speculation and hearsay.

The presence of any wilderness on the Mexican border is a danger to the security of the United States. The Arizona border history is finally being acknowledged and investigated. The mission demands of land management agencies of the United States Department of Agriculture (USDA) and Department of Interior (DOI) and those of the Department of Homeland Security (DHS) and U.S. Customs and Border Patrol Protection (CBP) are in direct conflict. The goals of the former are natural resource and environmental protection and those of the latter are Homeland Security and border protection. The former requires the limitation of human presence while the latter requires an enhanced presence without restriction or condition. This conflict among Federal Agencies results in diminished success for both. It is a dilemma that offers few remedies for improvement.

Designated Federal Wilderness is not causative in the intent of illegals to enter the United States, but it is causative in the establishment and expansion of entry corridors. The lessons of Cabeza Prieta National Wildlife Refuge, Organ Pipe Cactus National Monument, and Pajarita Wilderness must not be ignored. Once established, corridors similar to those in place in those Federal Wilderness areas are guarded with the most barbaric means imaginable.

The Potrillo Mountain complex has the same characteristics of threat potential to the United States as does Organ Pipe Cactus National Monument and Cabeza Prieta National Wildlife Refuge in Arizona. New Mexico Highway 9 provides East/ West access to the southern extensions of the proposed Wilderness boundary. The same sort of access is provided by Mexican Highway 2 south of Cabeza Prieta and Organ Pipe. It is along that access route that a whole infrastructure of service industries has sprung up supporting the human and drug smuggling industry. Even with upgrades in surveillance equipment and the addition of trained Border Patrol Officers, CBP will have unacceptable constraints placed upon it because of access issues in those Federal Wilderness areas. With such a vast expanse of open space, the border cannot be adequately protected.

For that very reason the strip or buffer between the southern extension of wilderness in the Potrillo Complex and the border as offered in S.1689 is inadequate for the Border Patrol to meet congressional demands for national security. **CBP cannot be expected to interdict and apprehend illegals within the narrow strip from the border north to Highway 9 nor can they be expected to do the same thing in the same narrow corridor being considered north of Highway 9. If they could, they would be doing it now.** Congress should recognize that imposing wilderness protections on an external boundary of the United States effectively redraws the line of defense to the nearest major east west highway north from such wilderness. In the case of S.1689, the effective defense line becomes Interstate 10 to the north. In Dona Ana County such action exposes the newly upgraded interstate rail line (which has 80± trains/ day) and the major interstate gas line on the northern edge of that proposed Wilderness area.

The fact that border wilderness areas have prompted the need for the 2006 MOU to allow conditional access for CBP should in itself alert all interested parties to the danger that Border Wilderness areas create. The MOU doesn't work. It has created nothing but chaos in Arizona. **NAFBPO concurs with Homeland Security Secretary, Janet Napolitano, that the 2006 MOU detailing BP access to wilderness and WSAs impacts the efficacy of BP operations negatively¹.** In fact, the NAFBPO position is that any MOU will be disallowed in any legal proceedings as being contravention to the statute that Senator Bingaman is introducing unless it is elevated into the law².”

The presence of Federal Wilderness in the Potrillo Mountains will result in the northward expansion of Border related dangers. Years of experience indicates that as these areas of easy access to the United States are identified by those seeking illegal entry, a corridor develops northward. This northern corridor is almost impossible to control when surrounded by wilderness designations. The risk of this extension is the result of geography north from the Potrillos. When pressure is put on the I-10 corridor in response, pickup of human and drug cargo will be extended further north into yet more

¹ Letter to Rob Bishop, Ranking Member, Subcommittee on National Parks, Forests, and Public Lands, October 2, 2009

² The 2006 MOU has never been used in NM. The document was the result of open conflict between the various agencies of the DOI and the BP for access into wilderness areas along the Arizona Border.

soft entry corridor opportunities. The Corralitos/ Broad Canyon corridor offers a parallel North/ South access route around Las Cruces and north from I-10. This is already an active corridor that compounds the difficulty of CBP interdiction and apprehension if federal Wilderness or NCAs are designated in the Robledos and Las Uvas Mountains. The Oregon Pipe experience has taught us that high points are used for observation along an active smuggling corridor. **If CBP is restricted from maintaining a full presence on the ground and with technical hardware because of federal land designation constraints in the greater Broad Canyon complex, the threat will automatically be extended northward exposing the village of Hatch and Highway 26.** Those points run the risk of becoming the extension of the virtual border. Along with these risks, the questions will inevitably arise concerning federal enforcement authority in interior locations which can no longer be defined as the border.

The forgoing is not an exercise in worst case planning. The experience on the Arizona border has demonstrated what happens when Federal Wilderness and other federal agencies collide in performing their missions. Statistics in 2009 clearly demonstrate that illegal human entry into the United States is down. It is down in all sectors, and, yet, deaths in Organ Pipe are up 40% in 2009 from similar data in 2007. If Congress elects to enact S.1689, the results detailed and set forth in this written testimony will almost certainly occur in New Mexico as they have in Arizona. Citizens of southern New Mexico should be aware of the consequences of such congressional action. NAFBPO, with over 5,000 combined man/ years of experience, recommends that the lands discussed in this written testimony not be considered for Federal Wilderness.

Sincerely,

James R. Switzer
Chairman, NAFBPO

CC: Representative Rob Bishop, (R-UT)
David Aguilar, CBP
NAFBPO membership