

Statement for the Record
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US House Natural Resources Committee
Subcommittee on Federal Lands
Legislative Hearing on HR 1820 (Rep. Ciscomani)
Federal Lands Amplified Security for the Homeland (FLASH) Act
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INTRODUCTION

Good morning Chairman Tiffany, Ranking Member Neguse, and members of the Subcommittee. Thank you for the opportunity to testify before you today. Chairman Tiffany, it's good to see you again; you may recall when I testified before the Wisconsin legislature in favor of a bill you sponsored to amend the hunting regulations for the Apostle Islands National Lakeshore, when I was the superintendent there.

My name is Bob Krumenaker. I worked for the National Park Service (NPS) for over 41 years as a biologist and a park superintendent in national park units all over the country, retiring in 2023 after almost 5 years as the Superintendent of Big Bend National Park and Rio Grande Wild & Scenic River. I am proud of my public service. Upon accepting every assignment, I signed an oath¹ to support the US Constitution and faithfully discharge the duties of the offices I held, which I never violated.

I am here representing myself, as well as the Coalition to Protect America's National Parks and the Association of National Park Rangers. These non-partisan organizations have over 4000 members, including current NPS employees, NPS retirees, and volunteers. Coalition members collectively bring over 50,000 years of national park experience. The Association is committed to the protection of the natural, cultural, and recreational resources of the National Park System, and to the persons who shoulder that responsibility.

It is my professional judgement that Title I of the FLASH Act, while attempting to resolve legitimate border security challenges on covered Federal lands, takes a blunt approach that is neither needed nor cost-effective. It has the potential to irreparably harm some of this nation's most spectacular and loved landscapes.

BACKGROUND

Big Bend National Park is larger than the state of Rhode Island, and includes almost 800,000 acres of federally-owned public land. This is the second largest contiguous block of publicly-accessible federal land along the US-Mexican border.² The 118 miles of the Rio

¹ <https://www.opm.gov/forms/pdfimage/sf61.pdf>

² The largest is Cabeza Prieta National Wildlife Refuge in Arizona.

Grande that bound the park on the south comprise the largest contiguous stretch of federally-owned land under one management authority along the entire US-Mexico border.

While the United States owns no land or water in the Rio Grande Wild & Scenic River downstream of Big Bend National Park, there are an additional 127 miles of river and shoreline where the National Park Service manages recreation and to some degree, natural and cultural resources. Between the national park and the wild & scenic river, I therefore had some stewardship responsibility for about 12.5% of the border, a total of 245 miles.

583,000 acres of Big Bend National Park were recommended by both Republican and Democratic administrations in the 1970s for wilderness designation. Congress has never acted on that recommendation, but these lands still retain their wilderness character almost 50 years later. The mountains, desert, and riparian corridor of Big Bend make up the largest block of undeveloped open space in Texas, and provide habitat for mountain lions, black bears, and many endemic species. Interest in seeing the park's wilderness-eligible lands formally designated as wilderness is strong, and supported by a wide and growing coalition.³

Big Bend welcomes over 500,000 visitors a year, people seeking respite and recreation in one of the most rugged, wildest, and biodiverse regions of the American southwest. The park's limited development footprint and the undeveloped wilderness that surround it provide opportunity for both windshield touring on paved roads and wild river excursions, as well as solitary backcountry experiences. It is truly one of America's "Crown Jewels."

The combined impact of NPS and visitor spending contributes over \$56 million annually to the regional economy and support over 650 jobs for hardworking Americans.⁴ As the state of Texas purchased the land and donated it to the federal government to establish the national park, Big Bend is often referred to as "Texas' Gift to the Nation."

In a 2021 survey conducted by the Big Bend Conservancy, the park's non-profit philanthropic partner, 85% of respondents did not want to see any more roads or other development inside park boundaries.

During my tenure as the national park superintendent, I supervised law enforcement operations conducted by commissioned Park Rangers. While their authority did not include enforcement of immigration or customs laws, we had close working relationships with both the US Border Patrol (USBP), which staffed a field station inside the national park; and US Customs, with which we had shared responsibility for the only port of entry in any

³ See www.keepbigbendwild.org.

⁴ Flyr, M., and L. Koontz. 2024. 2023 national park visitor spending effects: Economic contributions to local communities, states, and the nation. Science Report NPS/SR—2024/174. National Park Service, Fort Collins, Colorado. <https://irma.nps.gov/DataStore/DownloadFile/707832>

US national park area. Both, as you know, are units of Customs & Border Protection, their parent agency.

NPS and USBP staff at every level cooperated on a daily basis to protect multiple national interests at Big Bend – which include conservation (including protection of wilderness character), public enjoyment, visitor and employee safety, and security of the nation’s borders. The missions are not incompatible when there is mutual respect for the other agency’s important role to the American people.

The USBP agents stationed in Big Bend patrol the 122 miles of paved roads and 217 miles of unpaved roads in the park. Park Rangers do as well but the vast area precludes intensive monitoring by law enforcement staff of either agency. Most illegal border activity is detected, however, as both agencies conduct aerial patrols, and there is substantial electronic surveillance of the border in the park. When migrants are encountered, both agencies work as a team to facilitate the Border Patrol processing them and removing them from the park.

If a migrant does make it through the park without being apprehended, they’re almost always detected and taken into custody along one of the major highways north of the national park.

Aside from the small Border Patrol substation, they have no other tactical infrastructure in the national park. The deep canyons that line most of the border in this area, and the flash floods on tributaries of the Rio Grande, make any physical border barrier infeasible. Most people in the area share that view, regardless of where they stand on other issues.

In my experience, the 2006 Memorandum of Understanding⁵ between Homeland Security, Agriculture and Interior *Regarding Cooperative National Security and Counterterrorism Efforts on Federal Lands along the United States' Borders* works well. The MOU specifies that it is not “intended to prevent” USBP from exercising emergency authorities to access lands including motorized off-road pursuit of suspected cross-border violators at any time, including in wilderness and wilderness study areas, based on the professional judgment of USBP personnel.

The MOU requires that the Border Patrol respect wilderness constraints, except in cases of emergency, and even then they need to report back to the land management agency what happened and why. The MOU also requires that the land management agency respond expeditiously to USBP requests for infrastructure or operations that would normally be prohibited, and not use wilderness as an excuse to automatically say no.

⁵ <https://winapps.umn.edu/winapps/media2/wilderness/NWPS/documents/Border%20Patrol%20MOU.pdf>, hereafter “the MOU”

Most importantly, the MOU directs that the Border Patrol and the land management agency work together at the lowest level possible to resolve differences. It further directs that the agencies respect, and to the maximum degree possible, honor each other's mission.

This worked at Big Bend. Interagency communication and coordination was ongoing and constant. Park Rangers and USBP Agents coordinated operations on an almost-daily basis. We conducted shared training so we understood the other's mission, operations, and needs, and fleshed out where there may be conflicts to try to prevent them before they occurred. When we were asked to consider rescue beacons or radio installations in remote areas, we listened and asked questions to make sure we all had the same understanding of the real purpose behind the request as well as what other alternatives were being considered. We worked together and we collaboratively resolved the issues that arose. And when we had conflicts, we did joint after-action reviews to ensure everybody learned from experience so that we didn't repeat any mistakes that were made.

ANALYSIS

Title I of the FLASH Act provides an overly simplistic, one-size-fits-all approach that is neither needed nor cost-effective at Big Bend and would potentially do lasting damage to one of this nation's most spectacular and loved landscapes. I cannot speak with authority about other sectors of the border, but I would urge the committee to consider a different approach. I am particularly concerned with sections 101, 102, and 104.

Section 101 requires at least 584 miles of roads capable of being traveled by "standard vehicles" already exist, or be newly "installed" on Federal lands along the border. The Border Patrol, in my experience, utilizes 4 wheel drive trucks and high clearance SUVs in remote areas and the rough, unpaved, backcountry roads of Big Bend National Park meet their needs, to the best of my knowledge. NPS and the USBP even have an agreement whereby USBP annually transfers money to the park to assist the NPS in maintaining those roads, but not to the unnecessary standard that appears to be mandated in the bill. Where there are no roads within 10 miles of the border, I never once heard any Border Patrol agent or supervisor express that need.

The 1916 National Park Service Organic Act⁶ mandates that the National Park Service manage national parks and their resources "in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." It's hard to imagine that constructing new roads in some of the wildest areas of Big Bend would not violate this bedrock law.

The [Congressional Research Service estimates](#) that there are 584 miles of what this bill calls "covered federal lands" along the southern border. Section 101(c)(3) of the FLASH Act mandates "at least" 584 miles of road. Without explicitly saying so, the bill appears to

⁶ [54 US Code 100101\(a\)](#)

require a road suitable for “standard vehicles” within 10 miles of every mile of borderland owned by covered federal agencies.

Perhaps Big Bend National Park is not intended to be included? If that’s the case, I urge language in the bill stating as much. But I will submit that new roads are not necessarily the answer in all other federal borderlands; there needs to be site-specific analyses in these complex landscapes. Customs & Border Protection already has the authority to request this type of development where needed to fulfill their mission, and the MOU requires that the land management promptly review it, and approve it if the analysis supports it.⁷

Electronic surveillance and other proven technological solutions (such as the tethered blimp deployed on US 90 near Marfa, TX) should be considered prior to construction of new roads through wild country where those roads, notwithstanding their impact on the landscape, will be difficult and expensive to maintain.

Section 101(b) requires the land management agency to build the roads; and (d)(2) requires the land management agency to maintain them. I can say with conviction that there has never been enough money allocated to the agency budgets to maintain the current inventory of roads in national parks (and presumably other federal lands); and with the administration’s intent to significantly reduce federal budgets, this looks like it would be a significant unfunded mandate. To put this in real terms, Big Bend National Park alone had a Deferred Maintenance and Repair backlog of \$192 million⁸ in FY23, the largest component of which was road maintenance.

Section 101(d)(1)(B) requires the land management agency to allow unfettered access for local law enforcement officials carrying their official duties; and Section 103 authorizes the temporary placement of infrastructure on all covered Federal lands by the states without the opportunity for review by the land management agency⁹ or the need for a federal permit. Some border areas, including most of Big Bend National Park, have exclusive federal jurisdiction. Neither the local law enforcement nor the state have either legal jurisdiction or authority to enforce laws on these federal lands. I am concerned that this section creates ambiguities regarding both jurisdiction and authority for the federal land manager, and the presumption of approval by the land management agency, regardless of the potential impact or compatibility with other agency responsibilities, is troubling.

Section 101(f) requires compliance with NEPA and all other applicable laws and regulations, but it appears to be a foregone conclusion that many miles of new, high-standard roads are mandated by this bill. I have written environmental documents and

⁷ MOU, section III.B.6.

⁸ <https://www.nps.gov/subjects/infrastructure/deferred-maintenance.htm> -- search for Big Bend

⁹ Section 103 does require that the state submit notice of its intent to the Secretary of the land management agency 45 days in advance, but gives the Secretary no authority to disapprove or request modification of the proposal if it is deemed necessary by the Commissioner of US Customs and Border Protection.

recommended or approved many others in my career. While NEPA does not mandate the most environmentally sensitive outcome, it does require a fair, objective analysis and full disclosure of impacts. Federal land managers would find it virtually impossible to fully comply with the intent of NEPA, and their analysis, most likely, would have to be perfunctory at best.

Section 102 would amend the Wilderness Act, frankly, by eviscerating it. Subsection (A) would allow the Border Patrol to construct and maintain a variety of permanent installations, land aircraft, and use motor vehicles and other motorized equipment without so much as an analysis of their necessity or consultation with the land management agency. While these activities are normally prohibited by the terms of section 4(c) of the Wilderness Act, that same section allows for exceptions provided they can be shown to be “necessary to meet minimum requirements for the administration of the area for the purpose of [the] Act.”

The Minimum Requirement Analysis, very importantly, fosters collaboration between the proposing entity (in this case the Border Patrol) and the land manager. My experience, again, suggests this works. USBP proposed the deployment of several tactical radio installations in Big Bend’s recommended wilderness. NPS recognized that improving radio communications – provided the proposed technology would do what they hoped it would – would reduce migrant impacts on the national park, and would improve officer safety. I felt comfortable characterizing this as a “minimum requirement” for administration of the area. But my staff and I also viewed it as entirely appropriate to seek review of the proposed locations and technology by our agency’s electronic communications experts, who raised important questions about the efficacy of the proposed equipment to accomplish the USBP’s stated goals for the system. Questions the Border Patrol could not answer.

Would it have been better to override the input of the NPS and allow the Border Patrol to install radio systems on remote mountaintops that analysis suggests would not work as intended? Would it have been better for the Border Patrol to install towers much taller than their own experts deemed essential, marring the distant Big Bend views so valued by the American people, rather than work with them to redesign their equipment configurations so they had minimum footprint and visual impact without compromising effectiveness?

I submit the system works as intended; perhaps both agencies simply need a prod to take it seriously and, of course, to work cooperatively and expeditiously to resolve legitimate questions. This is exactly what the 2006 MOU requires. The system would work even better if the land management agencies were fully staffed.

Subsection (B) directs that the Commissioner of the US Border Patrol assure that any installation newly authorized under subsection (A) be carried out “in a manner that, to the extent possible, protects the wilderness character of the area.” With no required oversight or coordination with the land management agency that actually has expertise in wilderness character, I cannot see how this would be effective.

Section 104 prohibits the Secretary of the land management agency from impeding activities of the Border Patrol within 100 miles of the Border to execute Search and Rescue (SAR) operations. In my experience, there is no problem that requires a legislative solution. We welcomed the Border Patrol doing SAR in the national park, and they were a force multiplier for my own staff. Any legislative language mandating access should restrict such SAR activities to those associated with Border Security or the safety of their own personnel, require timely consultation and coordination with the land management agency, and that the methods employed be guided by the 2006 MOU.

CONCLUSION

Title I of the proposed FLASH Act, in my professional opinion and that of the Coalition to Protect America's National Parks and the Association of National Park Rangers, takes a blunt, one-size-fits-all approach to border security that has the potential to irreparably degrade some of the most iconic, wild, and adored landscapes of the American Southwest borderlands. It would unnecessarily gut the protections of the Wilderness Act in federal borderlands. There's no evidence that this approach would provide additional border security. Coupled with the drastic reductions being made to federal budgets and the staffing of the land management agencies, the bill's unspecified but undoubtedly high cost for construction and maintenance of high-standard border roads is both infeasible and inefficient.

Thank you for your time and consideration of my remarks.

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