Interagency Cooperation on U.S.-Mexico Border Wilderness Issues

A Report on Interagency Cooperation

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Executive Summary

This report documents interagency cooperation at work on the U.S.-Mexico border to improve both security at the border *and* the protection of adjacent wilderness areas. Despite the challenges and conflicts that can make such cooperation difficult, there are numerous examples of how the U.S. Department of Homeland Security and its agencies have been working together with the U.S Department of the Interior and the U.S. Department of Agriculture and their land management agencies on our southern border.

This report summarizes the recent history of interagency cooperation with an emphasis on U.S. Border Patrol (USBP) and federal land management agencies. It enumerates the different ways in which such cooperation occurs and illustrates this interagency cooperation through six case studies. The report is based on research conducted during the summer of 2010, including over 50 interviews with border security professionals, land management agencies, and border areas stakeholders.

After a slow start and much trial and error, cooperation among federal departments and agencies charged with protection of the border and wilderness areas has been improving in the past few years. Departmental leadership has issued several policy directives and put in place organizational mechanisms that have created a framework for collaboration and conflict resolution among the departments and their respective agencies on the ground.

Interagency cooperation is occurring in the field in a variety of contexts, including:

- ***Interagency communications***, ranging from improving radio interoperability to consolidating communication towers and equipment, and co-locating offices;
- ***Enhanced joint capacity*** as "force multipliers," extending surveillance and law enforcement capabilities, joint training and education, and improved mapping systems;
- ***Assistance to border security by land management agencies*** on fence construction and maintenance, surveillance operations and equipment, barriers and access into and through public lands, and on resource management actions;
- ***Assistance to land management agencies for mitigation and restoration*** on road and vegetation maintenance, participatory planning and joint conservation efforts, clean-up coordination, and restoration and road closures; and
- ***Joint efforts to protect public health and safety*** through risk communication on websites and signage and sharing medic team capabilities.

The six cases presented in the report describe in more detail the array of cooperative activities that are occurring on the border in wilderness and other protected areas.

Consolidation of Ajo Mountain Repeater Towers in Organ Pipe Cactus National Monument explores how effective collaborative planning leveraged interagency resources, streamlined project execution, reduced environmental impacts, and improved operational performance.

Cooperative Strategic Plan in the Coronado National Forest illustrates the effectiveness of

proactive joint strategic planning between USBP and a land management unit, the Coronado National Forest, in clarifying individual and shared mission objectives and rules of engagement.

Lower Colorado River Limitrophe Vegetation Management describes a border situation where both security and conservation interests are being served by a joint operation to control invasive vegetation and restore native species.

Imperial Sand Dunes Recreation Area Management Plan demonstrates how USBP can contribute to resource management planning as a cooperating agency with federal land management agencies like the U.S. Bureau of Land Management.

Road Closures and Restoration in the Lower Rio Grande Valley NWR (LRGV NWR) describes cooperation between USBP and LRGV NWR in planning future road closures and restoration work, suggesting the potential for ongoing interagency collaboration in the future.

The Proposed Organ Mountains–Desert Peaks Wilderness Act suggests ways in which the use of consultation and stakeholder input can assist in fashioning new wilderness areas on the border without jeopardizing security considerations.

The twin values of national security and public lands stewardship can be simultaneously fulfilled, but it will take continued interagency cooperation to assure this happens. Ongoing research explores the challenges to effective interagency cooperation and recommendations for improving and increasing it in the future.

Table of Contents

About the Author Kirk Emerson has had a longstanding career in environmental conflict resolution, as a practitioner, trainer, researcher, and administrator. She provides conflict assessment, consultation and training services and is a policy research associate at The University of Arizona's School of Government and Public Policy and the Udall Center for Studies in Public Policy. She is currently working on collaborative governance for climate change, interagency collaboration on border security and wilderness, and evaluation of collaborative adaptive resource management. Dr. Emerson is the former director of the U.S. Institute for Environmental Conflict Resolution of the Morris K. Udall Foundation. http://udallcenter.arizona.edu/personnel/kemerson.php

Abbreviations

Federal Departments and Agencies

BIA	U.S. Bureau of Indian Affairs
BLM	U.S. Bureau of Land Management
BOR	U.S. Bureau of Reclamation
DHS	U.S. Department of Homeland Security
DOI	U.S. Department of the Interior
FWS	U.S. Fish and Wildlife Service
GAO	U.S. Government Accountability Office (previously U.S. General Accounting Office)
ICE	U.S. Immigration and Customs Enforcement
INS	U.S. Immigration and Naturalization Service
NPS	National Park Service
USBP	U.S. Border Patrol
USCBP	U.S. Customs and Border Protection
USDA	U.S. Department of Agriculture
USFS	U.S. Forest Service (Department of Agriculture)

Border Place Names, Jurisdictions and Other Designations

CNF	Coronado National Forest
ISDRA	Imperial Sand Dunes Recreation Area
LRGV NWR	Lower Rio Grande Valley National Wildlife Refuge
MOU	Memorandum of Understanding
NGOs	Nongovernmental Organizations
OPCNM	Organ Pipe Cactus National Monument
SES	Senior Executive Service
WSA	Wilderness Study Area

I. Introduction

This report provides initial findings from independent research on interagency cooperation along the U.S.-Mexico border. The research was instigated by a request from the New Mexico Wilderness Alliance for information on the nature of interagency collaboration on the border. The pragmatic focus of the research is on how we can improve security at the border *and* protection of adjacent wilderness areas. The working premise is that interagency cooperation is key to achieving these twin missions. Despite the challenges and conflicts that can make such cooperation difficult, there are numerous examples of how the U.S. Department of Homeland Security (DHS) and its agencies have been successfully working together with the U.S. Department of the Interior (DOI) and the U.S. Department of Agriculture (USDA) and their land management agencies on the border.

This report provides a brief history of recent interagency cooperation on the border, summarizes the nature and range of such cooperation, and offers six case examples of interagency cooperation between the U.S. Border Patrol and several land management agencies working in wilderness areas on the border.

In preparing this report, several references have been consulted including academic research, government and institutional reports, public laws and regulations, congressional testimony, and media coverage. Additionally, over 50 background interviews have been conducted with federal public land managers and law enforcement officers, U.S. Border Patrol (USBP) administrators and agents, senior federal executives (past and present) at agency offices in DC, borderland ranchers and resource users, environmental and wilderness advocates, and border researchers.

Interagency cooperation or collaborative public management is not new to the federal government. In fact, environmental and natural resource management has been one of the primary seedbeds for the evolving practice of cross-agency and intergovernmental public management for the past few decades (Bingham and O'Leary 2008). That it is now being practiced in such a difficult setting along our southwest border is encouraging and praiseworthy. The research literature on collaborative management has identified several of its potential benefits, including improved coordination of activities, leveraging and pooling of resources, increased social capital, conflict management (prevention, reduction and resolution), knowledge management (its generation, translation, and diffusion), shared risk in policy experimentation, and increased policy compliance (Leach and Sabatier 2005; Agranoff and McGuire 2003; Agranoff 2008; Provan and Milward 1995). Several of these benefits are already evident in border management from the case studies and the interviews conducted for this paper.

II. Recent History of Interagency Cooperation on the Border

Cooperation among federal departments and agencies charged with protection of the border and wilderness areas has been improving in recent years after a slow start and much trial and error. Leadership at DHS, DOI and USDA has issued several policy directives and put in place new organizational mechanisms that have created a framework for collaboration and conflict resolution.

The impacts of illegal border crossing activity on wilderness and other protected public lands started increasing in the mid-1990s as illegal border traffic increased (U.S. Department of Interior April 2002; U.S. General Accounting Office June 2004). In response, an interagency initiative called the Southwest Strategy, with funding from and participation by the USBP, tried to work at the regional level on resource management issues and impacts from border crossers and interdiction efforts. This led to regional agreements and ten local Memoranda of Understanding (MOUs) followed by the establishment of interagency state-wide Border Management Task Forces.

In 2004, the U.S. General Accounting Office (GAO, now the U.S. Government Accountability Office) reported on the need for federal public land agencies and USBP to better coordinate their strategies and operations along both the northern and southern borders. GAO called the level of national interagency coordination at that time "minimal," despite the importance of such coordination for federal law enforcement along the border.[1] Among its findings at the time, GAO reported that:

> The three departments—DHS, Interior, and Agriculture—have yet to coordinate their strategies and develop broad interagency approaches to combat illegal activities on federal borderlands. As a result, threats may not be fully assessed, limited funds may not be efficiently used, and deployment of personnel and other resources may be inefficient or negatively affect other agencies, according to land management agency and Border Patrol officials (GAO, 2004, 4).

Land management agencies attributed the increase in federal land crossings to the USBP strategy of "prevention through deterrence" that focused on interdiction around the more populous ports of entry, thus increasing illegal entry in more remote areas through public lands. There were additional concerns raised about lack of communication from USBP to land management agencies about staff deployment plans, threat assessments, funding proposals, and installation of border infrastructure. A 2003 draft International Border Coordination Strategy by DOI, quoted in the GAO report, described more coordination with DHS as "vital" and sought closer communication and integration to deal with the border challenges they jointly faced. An Agriculture Inspector General's report in the same year identified similar needs on USFS lands.

DHS had just been created post 9/11 and USBP relocated from the Department of Justice to DHS. Simultaneous with this reorganization was the Administration and Congress's intense focus on national security and demand for aggressive action to close the borders and protect the nation from international terrorists. These external factors created an environment in which a massive new department and other branches of the federal government had to set up new lines of communication and collaboration to address newly identified mandates. GAO (2004) reported on several efforts underway between DHS and DOI agencies to improve the situation. Interdepartmental meetings were being held in DC and interagency meetings had started taking place in the field. Working protocols and

[1] An updated GAO report on the status of interagency cooperation on the border will be published in fall 2010.

principles for engagement to guide joint action were being developed.

Interagency Agreements and Directives

Departmental leadership responded to the acknowledged challenges in the field and to GAO's recommendations to "coordinate their strategic and operational plans when federal and tribal lands are affected and include in those plans goals for developing joint threat assessments, coordinating funding proposals for infrastructure and technology, and sharing deployment plans" (GAO, 2004, 4). In 2004, DHS, DOI and USDA began negotiations on an interagency MOU to advance cooperation on the border.

However, in 2005, Congress passed the REAL ID Act, which included a provision that granted the secretary of DHS sole discretion to waive any and all laws "necessary to ensure expeditious construction of the barriers and roads" (barriers meaning new border fences, walls and vehicle barriers). In 2006, Congress passed the Secure Fence Act, which mandated the construction of 700 miles of secure border fencing by the end of 2008. Although that requirement was later modified to give the Secretary of Homeland Security more discretion about where and how much fence to construct, these Congressional mandates placed additional pressure on DHS that resulted in the then DHS Secretary Michael Chertoff invoking the waiver authority five times over the next two years, each time increasing the number of laws waived and the geographic scope. A total of 35 federal environmental, cultural, public health, safety and religious freedom laws and all related state and local laws were waived during the Bush Administration using the REAL ID authority.

While the waivers were successful in expediting construction, they came at the expense of meaningful public participation and sufficient interagency consultation. In addition, the waivers were met with opposition, frustration and even legal action from affected communities, tribes, private land owners and environmental organizations. The waivers also created frustration for federal land managers charged with upholding their guiding missions and regulations, and thus inevitably strained relations between land management agencies and DHS. Lastly, the waivers left municipalities, land managers, and other entities confused as to what laws DHS is and is not accountable to on the border and under what circumstances.

In 2006, committed to improving interagency cooperation, DHS, DOI and USDA signed a MOU regarding "Cooperative National Security and Counterterrorism Efforts on Federal Lands along the United States Borders." This MOU made explicit the departments' joint "commitment to preventing illegal entry into the United States, protecting Federal Lands and natural and cultural resources, and – where possible – preventing adverse impacts associated with illegal entry by CBVs [cross-border violators]." It set forth shared principles, practices and protocols for border law enforcement operations, the installation of infrastructure, use of roads, protection of natural and cultural resources, and compliance with national environmental laws including the Wilderness Act. It also provided for more coordination, information-sharing and strategic planning.

The 2006 MOU was itself an example of cooperative leadership and set the framework for interagency cooperation across the agencies in the regional and local offices. The MOU directed its agency counterparts to address conflicts at the lowest operational level possible and where not resolvable, set forth an elevation

procedure within the departmental chains of command. It directed the departments and their agencies to cooperate in reaching compliance with all applicable Federal laws in an expedited fashion. The MOU included provisions for cooperative training of staff, joint operations and improved communications. As will be discussed shortly, the MOU also addressed specific issues with regard to federally designated wilderness areas.

The U.S. Fish and Wildlife Service (FWS) followed suit shortly thereafter and developed a web-based Information, Planning and Consultation System to streamline environmental review and consultation under Section 7 of the ESA with DHS. Also, the Chiefs of USBP and USDA – Forest Service (USFS) signed an integrated strategic plan in 2006 for law enforcement and border security in the Coronado National Forest (see detailed case description below). More interagency MOUs at the local level followed.

Organizational Mechanisms

In addition to national directives and other legal instruments, departmental organizational changes were made to promote coordination at the national, state and field levels. A Border Working Group was set up within the DOI's Deputy Secretary's office with representatives from each of Interior's agencies with land management responsibilities in the Southwest. A National Borderlands Coordinator at the Senior Executive Service (SES) level was appointed at DOI as a single point of contact for all USBP Sectors. DOI also set up regional points of contact for each USBP Sector.

The Borderland Management Task Forces (BMTFs) continued to provide interagency coordination and information exchange in every border state. USBP created new positions for Public Lands Liaisons in every sector to interface with land management agencies, in the midst of increasing its border personnel from 2,000 to 20,000 within recent years. Special interagency teams were set up; for example, these included the New Mexico Border Security Task Force that works directly with the public and meets quarterly; and the San Diego Border Agency Fire Council, an international cooperative effort that includes USBP and public land agencies as well.

By 2008, in spite of the conflicts over the border fence construction and the use by DHS of its controversial waiver authority in specific instances along the border, the institutional framework and expectations for interagency cooperation had been put in place and were beginning to yield improved cooperation, conflict resolution, and joint problem solving.

III. Nature and Range of Interagency Cooperation

> *We cooperate well. We communicate well and with DOI we have had a great deal of communication over the last several years. With the border fence we had a deadline and absolutely desperately needed their help and they stepped up and helped. That has not stopped.* USBP Official
>
> *DHS bends over backwards to accommodate us; not that they don't make mistakes, but the DC office is fully cooperating - trying to change their culture through environmental awareness and education and training as they quadruple in size, lots of cultural change. They are fully committed to the environmental issues.* DOI Law Enforcement Officer

Although challenges to DHS, DOI, and USDA cooperation along the U.S.-Mexico border exist, successful cooperation has occurred and continues to take place, resulting in positive outcomes according to those interviewed for this research project. Federal departmental

leadership, policies, and institutions have continued to emphasize and explicitly support the ongoing need for interagency cooperation in the face of recognized difficulties.

Section III demonstrates the commitment to this interagency cooperation by reporting on-the-ground examples of interagency communications; enhanced joint capacity; direct assistance for border security from land management agencies; direct assistance from USBP and DHS for resource management, mitigation and restoration; and joint efforts to protect public health and safety on public lands along the border. Section IV, which follows, presents six case studies of interagency cooperation on the U.S.-Mexico border.

Interagency Communications

In the remote rural stretches along the border, there is limited telephone and cell coverage. Federal employees rely on two-way radios and require secure frequencies. Radio interoperability was an early challenge between USBP and land management agencies and continues in some areas today. However, sector by sector and station by station, this is being remedied through exchanges and reprogramming of equipment, equipment loan programs, and new or upgraded cell towers.

A 2007 negotiated interagency MOU helped guide the Bureau of Land Management's (BLM) New Mexico office and the El Paso USBP Sector site and airlift into place a repeater tower in the Big Hatchet Mountains WSA with minimal resource damage. In the Organ Pipe Cactus Wilderness in Arizona, through interagency cooperation, seven different agency towers were ungraded and consolidated into one radio repeater station reducing the footprint of the facility on Ajo Mountain (see following case description).

Interagency communication has also been increased by the co-location of various offices and facilities providing easy and more frequent access for conversations and updating. For example, the Southwest DOI Law Enforcement Coordinator now works out of the Tucson Sector USBP Office. Housing for USBP agents is being constructed within Big Bend National Park to improve USBP presence and park safety. In Buenos Aires National Wildlife Refuge, trailers and RV hookups for temporary USBP housing are provided for details and special USBP operations on the refuge.

Enhanced Joint Capacity

There are several ways in which interagency cooperation has strengthened the joint capacity of USBP and land management agencies, especially by extending surveillance and law enforcement capabilities, joint training and education activities, and improving consistency among maps and nomenclature. In many areas, DOI and USFS land managers and their Law Enforcement Officers (LEOs) have served as "force multipliers" when they patrol public lands and relay information about border crossers to USBP on a daily basis. Occasionally, joint law enforcement operations are conducted on public lands to deal with special law enforcement situations. In the Organ Pipe Cactus National Monument, USBP has provided air support with their helicopters to assist NPS law enforcement operations.

In the Lower Rio Grande Valley National Wildlife Refuge, USBP regularly informs the refuge about safety issues related to current border violence occurring in Mexico, e.g., when such activity is increasing (shootings, violence, trafficking, etc.) or when agents have encounters on Refuge lands warranting increased safety precautions for staff,

volunteers and visitors. USBP agents frequently report other illegal activities to refuge LEOs, e.g., wild fires and other illegal activities outside their jurisdiction, including off road vehicle use, plant theft, and human and livestock trespass. Recently, the U.S. Customs and Border Protection (CBP) reported on an oil and gas company that had started drilling on Refuge lands without prior coordination with the Refuge. USBP agents have also started regularly reporting wildlife sightings (e.g., ocelot/bobcats) and road mortalities.

Training films have been jointly produced by DOI and DHS in every border state for orienting new USBP agents to public land laws and regulations as well as specific qualities and sensitivities of the vegetation and wildlife in particular areas. In Texas and California, periodic "ride alongs" between DOI and USBP staff are scheduled to share perspectives on the operations and challenges of their respective agencies. The Border Patrol's security workshops are generally open to resource agency personnel.

In several sectors, coordination has been occurring around updating and aligning maps, including locating roads and trail systems and key landscape features, as well as calibrating names and numbers for reference purposes out in the field.

<u>Assistance to Border Security by Land Management Agencies</u>

In addition to enhancing joint capacity, there are a number of examples of land management agencies assisting with security needs along the border relating to fence construction and maintenance, location of surveillance equipment and operations, barriers and access into and through public lands, including wilderness, and specific resource management actions.

Fence Construction and Maintenance

Despite DHS's use of its waiver authority and the time-pressured challenges faced by USBP in completing the border fence, federal land management agencies and USBP continue to work on border fence issues together. Mitigation for some of the impacts of fence construction that could not be completed earlier is now being undertaken in cooperation with the land management agencies. For example, improved bank stabilization has been completed by USBP along the southern boundary of the San Pedro Riparian National Conservation Area where boulders were used, at the suggestion of the land managers, for border security across the river. The Normandy fencing used for vehicle barriers there is also designed to be moveable during seasonal flooding at the request of land managers.

S*urveillance Operations and Equipment*

The siting and placement of surveillance equipment and towers can be constrained by wilderness restrictions. However, there are examples of interagency cooperation that have successfully worked through these issues. The Coronado National Forest, as part of its integrated strategic plan with USBP mentioned previously, established the location of three forward operating bases on forest lands, designated acceptable patrol roads, and agreed on other law enforcement conventions for interdiction activities (see detailed case description below). In another case, based on consultation with Coronado National Forest, USBP found an alternative location for a mobile surveillance unit between Sasabe and Nogales

that adequately met their security requirements.

In Organ Pipe Cactus National Monument, the National Park Service assisted USBP in placement of a mobile surveillance unit that minimized impacts to the environment as well as entry into wilderness and at the same time provided USBP with needed vantage points for surveillance. In the West Potrillo Mountains, in New Mexico, BLM provides expedited onsite review for temporary placement of mobile surveillance units in "ways" or other pre-existing roads within WSAs.

Barriers and Access into and through Public Lands

Some wilderness and other protected lands along the border have needed greater protection against illegal crossers who drive cars, trucks and ATVs straight across sensitive desert or riparian areas. In 2006, Organ Pipe Cactus National Monument put up 23 miles of vehicle barriers that significantly reduced such vehicle activity and as a result assisted USBP in its operations. In Texas, USBP worked with the Lower Rio Grande Valley National Wildlife Refuge to install, secure and lock new gates to deter illegal vehicular traffic on the refuge and place rock barricades on an adjacent track in Anzalduas State Park to cut off a well-used route for traffickers taking stolen heavy trucks back across the border to Mexico. FWS worked with the City of Hidalgo and USBP to install security screen over a drain pipe that had served as popular access through the refuge for smugglers near the City of Hidalgo, Texas.

A primary quality of wilderness is its roadless character. This creates access challenges for USBP when they want to place surveillance or communications infrastructure where no roads or permanent structures are allowed. USBP does have and uses its authority to traverse wilderness in vehicles when in pursuit of a suspected illegal border crosser or smuggler. Facilitating access for those occasions and other situations presents difficulties for land management agencies as well. There are several instances, however, where interagency cooperation has made this easier. For example, FWS at Buenos Aires National Wildlife Refuge shares its airstrip and portable fueling facility with USBP to facilitate more efficient air patrols. FWS also developed methods, routes and locations within the Cabeza Prieta National Wildlife Refuge to facilitate USBP access and operations. In other protected areas, USBP agents have keys or lock combinations to open and shut secured refuge or pasture gates.

Much of the southwestern wilderness is only accessible on foot or horseback. FWS shares its equestrian facility with USBP for access into Cabeza Prieta Wilderness. The National Park Service (NPS) set up a pullout site on Organ Pipe Cactus National Monument to accommodate horse trailers and vehicles to support USBP's horse patrol operations. Buenos Aires NWR worked with USBP to develop a 3-acre horse facility for USBP's horse patrol unit. Land management equestrian staff has assisting with training USBP agents in horse patrolling.

Resource Management Actions

Along the two stretches of the U.S.-Mexico border bounded by rivers, there have been areas where the riparian vegetation is so dense it has provided good cover for border crossers and smugglers and made it difficult for USBP agents to monitor crossing activity. In several incidences, this vegetation has been hardy invasive species that are also choking out native trees and shrubs. FWS in Texas assisted USBP in removing dense stands of Carrizo Cane, which

grows up to 30 feet high in several locations along the border, including Big Bend National Park. Removing the cane not only improved sight lines for USBP agents, but was also beneficial for the river's riparian ecosystem.

In the Lower Colorado River Limitrophe, BLM's Arizona office worked with USBP to remove invasive salt cedar trees along that stretch of the border. USBP is now working with BLM, Bureau of Reclamation (BOR), and area Native American Tribes among other federal and state agencies and nongovernmental organizations (NGOs) to restore native vegetation to the river banks (see the detailed case description below).

Assistance to Land Management for Mitigation and Restoration

USBP has also provided valuable assistance in resource management to land managers along the border including road and vegetation maintenance, participation in joint planning and conservation activities, coordination of clean-up of border trash and abandoned vehicles, as well as operation sites and road closures and restoration.

Road and Vegetation Maintenance

Patrol roads along and near the border are heavily used and impacted by USBP vehicles and require more frequent maintenance and upgrading than would normally be provided by public lands and wilderness managers. USBP contracts this additional work out to the Army Corps of Engineers or to the agencies themselves, and often the agencies supervise the work to assure consistency with the agreed upon work orders and standards for mitigation. In the Lower Rio Grande Valley National Wildlife Refuge, USBP put an operations and maintenance team together to complete road work as well as needed vegetation removal work, in accordance with an Intra-Service Section 7 Endangered Species Consultation. A compatibility determination by the refuge, standard operating procedures and special use permits were issued to assure compliance with environmental regulations.

Participatory Planning and Joint Conservation Efforts

USBP has begun to play a more active role in resource planning and conservation along the border with public land management agencies. In Southern CA, USBP has served as a cooperating agency in the preparation of the Imperial Sand Dunes Recreation Area Management Plan and accompanying EIS that supported the protection of an endangered plant species along the border (see the case detailed below). USBP is also participating in a multi-state conservation initiative led by the California BLM office to protect the threatened flat-tailed horned lizard. In another example, a land exchange agreement was negotiated between FWS and DHS at the Buenos Aires NWR in 2007 to enable USBP to finish the construction of the border fence along the southern refuge bordering Mexico. Efforts have been underway to complete an appraisal of an appropriate tract of land to serve as mitigation for the fence construction impacts.

One of the central electronic surveillance projects for the Secure Border Initiatives, the SBInet Ajo-1 Tower Project, has been the result of considerable collaboration among USBP and public land agencies. The interagency consultation on that project over the past two years has led to a reduction in the number of proposed surveillance towers from 33 to eight, all of which are to be located outside of the wilderness areas while still maintaining the

operational needs of USBP. In addition, this project is likely to include a significant mitigation package which will include restoration measures for Sonoran pronghorn and lesser long-nosed bat conservation in the wilderness areas of the Organ Pipe Cactus National Monument and Cabeza Prieta National Wildlife Refuge.

Clean Up Coordination

Border crossers leave more than tracks in the desert, as previously described. Clean up efforts sponsored by USBP and federal land management agencies are ongoing, very time and labor intensive, and always under-resourced. An interagency working group of the Arizona Border Management Task Force is building a web-based data base to map and track where border crosser trash is located. Field agents will be able to input GPS coordinates for trash locations and better coordinate and document clean-up activities conducted by agencies and by humanitarian organizations.

Restoration and Road Closures

Opportunities are beginning to arise for additional mitigation and restoration of impacted resources. Planning for site restoration and road closures is beginning to occur in Texas and in Arizona. For example, in the Lower Rio Grande Valley National Wildlife Refuge, discussions are taking place between FWS and USBP on how to eliminate certain roads in the refuge that had been created for patrolling and interdiction activities by USBP (see the following case description). In the Cabeza Prieta Wilderness, plans are forming as part of the of SBInet Ajo-1 system to relocate a forward operating base near a proposed tower and out of Bates Well, a historic ranch site located in a mountain pass that is a known historical migration corridor for the endangered Sonoran pronghorn.

Joint Efforts to Protect Public Health and Safety

Border security is first and foremost about federal agencies protecting public health and safety through their primary mission of stopping illegal border crossing. These agencies also work together to inform the public of any potential risks to public health and safety. In all states, informational brochures, web information and signage is provided on safety concerns near the border in certain high risk areas. Signage for the Continental Divide Trail that runs through WSAs in the southwestern Boot Heel of New Mexico encourages hikers to reroute over certain dangerous stretches. Also in New Mexico, there is a special USBP agent assigned as liaison with ranchers to keep them apprised of security conditions (and vice versa) and coordinate with the Bureau of Land Management as issues arise. In California, the Border Patrol's BORSTAR medic teams assist with emergency services for injuries that occur with All Terrain Vehicle (ATV) use in Imperial Sand Dunes National Recreation Area.

In sum, there are numerous opportunities for interagency cooperation along the border, many of which have been and continue to be exercised. While the above is not intended as a complete list of cooperative efforts, it is also not meant to suggest that conflicts or tensions between USBP and federal land management agencies do not exist in border wilderness areas. Difficulties and disagreements can occur when carrying out these complex and interdependent national priorities. Nonetheless, this array of cooperative activities belies any suggestion that interagency cooperation is

either not possible or is not taking place along the U.S-Mexico border in wilderness areas.

IV. Case Illustrations of Cooperation in Border Wilderness and Other Federally Protected Lands

The following six case descriptions illustrate interagency collaboration in the context of supporting border security needs, wilderness and public lands protection needs, and prospective joint planning and legislation. They were culled from the numerous examples mentioned in the preceding section and from discussions with many of those interviewed for this research.

Consolidation of Ajo Mountain Repeater Towers in Organ Pipe Cactus National Monument

This case illustrates how effective collaborative planning can leverage interagency resources, streamline project execution, reduce environmental impacts, and improve operational performance.

The Organ Pipe Cactus National Monument (OPCNM) in southern Arizona was established in 1937 by President Franklin D. Roosevelt as a pristine exemplar of the Sonoran Desert and one of its iconic species, the rare Organ Pipe Cactus. In 1978, 94 percent of its 329,199 acres was designated by Congress as Wilderness because of its roadless, untrammeled state and its protection of four federally endangered species (the Sonoran pronghorn, the lesser long-nosed bat, the Quitobquito pupfish and the Mexican spotted owl). Bordered by public lands to the west (Cabeza Prieta NWR) and north (BLM lands), it shares its eastern boundary with the Tohono O'odum Indian Reservation and its 30 mile southern border with Mexico. Its ecological system extends further south and is protected by its sister park El Pinacate y Gran Desierto de Altar Biosphere Reserve in Sonora, Mexico. It is a land of extreme topography and temperature, supporting species at the northern edge of their range rarely seen elsewhere in the U.S. and protecting cultural sites and artifacts from early American Indians, Mexican, and European settlements.

OPCNM and other remote areas of the Arizona-Sonoran border have become the epicenter of illegal border immigration and drug smuggling from Mexico. Highway 85, which bisects the monument north to south, is not only the major route to the popular beach resort of Puerto Peñasco on Mexico's Sea of Cortez, it also serves as a major smuggling corridor. As one OPCNM staffer described it, "Border crossings continue at an alarmingly high rate, entailing both illegal immigration activities (individual transients up to groups of 30-50 moving through) and more concentrated activity of drug smuggling. It runs the gamut."

The tightening of enforcement in the San Diego USBP Sector, which began in the mid-1990s, diverted cross-border traffic to the Tucson Sector. As apprehensions dropped some 75 percent in the San Diego Sector between 1995 and 2005, they doubled in the Tucson Sector and increased 23 times in the Ajo Station that covers OPCNM and adjacent areas. There have been deaths reported this fiscal year, 10 of which were probably due to the elements, one due to a homicide and another due to a fall. The Ajo Station ranked second across all border stations in the country in marijuana seizures (valued at $174 million) during the fiscal year 2007. This level of illegal border activity has led

to a ten-fold increase in USBP agents (from 20 to 200) between 1995 and 2006 and substantial increase in security infrastructure. Much of the drug traffic in the Ajo Station, however, is crossing through the Tohono O'odam Reservation.

In 2004, several hundred miles of off-road vehicle routes and illegal foot trails were documented in the OPCNM, all creating dispersed disturbance to soils, vegetation, wildlife and water sources.

Tracks from Off Road Vehicle Use on OPCNM

Sue Rutman, NPS Photos

The impacts of accumulating trash, abandoned cars, graffiti, wildfires started from camp fires, and damage to archeological sites and monument infrastructure have been extensive. The 23 miles of vehicle barriers OPCNM constructed in 2006 have substantially reduced the illegal vehicle crossings, but there continue to be a number of off road vehicle incursions within OPCNM created by interdiction activities, according to NPS monitoring transects. Based on USBP data for 2009, there were 405 documented motor vehicle incursions in OPCNM.

Another 5.2 miles of pedestrian fence on either side of Lukeville were constructed by DHS in late 2007 as part of the Secure Fence Act. The fencing has helped delay local crossing activity in and increase interdiction, but the fence continues to be routinely breached. Based on an internal risk analysis and limited LEO positions, OPCNM has closed more than 50 percent of its area to the public as well as to its staff.

Vehicle Barriers on OPCNM Border

Sue Rutman, NPS Photos

In this very difficult environment where border protection meets wilderness protection, USBP and OPCNM on the ground and DHS and DOI in DC have made progress in learning how to work together, coordinating law enforcement activities and mitigating resource impacts. Communication and surveillance technology has been the current focus of interagency cooperation on the OPCNM.

In this remote border region, where cell phone coverage is minimal, two-way radio communication has been essential for both law enforcement and resource management in the monument and its neighbors for NPS as well as for USCBP/USBP, the Bureau of Land Management, U.S. Fish & Wildlife Service, Pima County, the state of Arizona and DHS. All of these jurisdictions have, until May 2010, depended on individual radio towers placed atop Mount Ajo, at 4,808 feet the tallest peak in OPCNM and located on the wilderness boundary three to four miles north of the border. Not only was equipment upgrading needed, but the site itself, a destination for some hardy climbers, had become a mess of radio equipment, boxes and antennas from seven different installations extended across 100 yards of the narrow Ajo ridge line that

overlooks the Tohono O'odam reservation. Vandalism had become a problem as well.

When Border Patrol's permit for its tower was due for renewal in 2007, NPS took the opportunity to initiate the complex but timely task of bringing DHS and all the other public agencies to the table to consider how to consolidate and upgrade the tower equipment and operations. Once all the entities had reached agreement on this joint effort, the planning, permitting, environmental reviews, funding, and logistics moved forward. The original repeater tower had predated the wilderness designation and an internal "minimum required analysis" was conducted that obviated the need for a more extended environmental assessment. The tower consolidation, which included careful mitigation measures during construction and was expected to reduce the tower's footprint and the need for routine maintenance, was deemed appropriate by the permitting authorities.

New Radio Repeater Station

Photo: Ajo Copper News

The design and construction of the new radio repeater station was a feat of interagency collaboration. After OPCNM staff formed and poured the concrete footings, a 10 foot by 10 foot prefabricated structure (paid for by NPS) was flown in and lifted into place by a "Skycrane" helicopter hired by DHS. An additional helicopter transferred old equipment from and new equipment to the site. The new station is powered and cooled by a solar array provided by DHS. The new station has both reduced the infrastructure footprint in the wilderness and improved the transmission, reception and coverage needed for radio communications across this vast desert border area.

OPCNM and the other adjacent border land managers continue to cooperate with USBP on other tower locations issues, including the SBInet Ajo 1 surveillance tower project. The original proposal for 33 towers along the border was reduced to eight towers, due in part to the interagency engagement and consultation in planning that system. All of the currently proposed towers would be located outside wilderness areas. The number of towers may be reduced even further due to plans being investigated to use fiber optic cable along one of the administrative roads as an option to eliminate another tower.

Sources: Interviews with OPCNM officials; www.nps.gov/orpi; National Park Service 2010; Wilderness Institute 2010; Mekelburg 2010; Piekielek 2009; Sharp and Gimblett 2009.

Cooperative Operations through Joint Strategic Plan in the Coronado National Forest

This case illustrates the effectiveness of proactive joint strategic planning between USBP and a land management unit, the Coronado National Forest

(CNF), at clarifying mission objectives and rules of engagement.

CNF is an assemblage of over 1.7 million acres of basin range topography known as "sky islands" in southeastern Arizona. These lands are managed by the USDA Forest Service (USFS) for multiple uses and sustainable yields of timber, grasslands and game populations, as well as for other recreational and conservation purposes. CNF manages eight wilderness areas and two wilderness study areas. Three of these areas (Pajarita, Miller Peak, and Mt. Wrightson), all established by Congress in the 1984 Arizona Wilderness Act, are on or within 25 miles of the border. Pajarita is known for its rich diversity of plants (over 660 different species) and the dramatic Sycamore Canyon. Miller Peak is the highest peak on the southern border rising to 9,466 feet at the tip of the Huachuca Mountains and the terminus of the Arizona Trail. Both Pajarita and Miller Peak are adjacent to the border and are recognized as cross-border wildlife migration corridors. Some 20 miles north of the border sits Mt. Wrightson Wilderness in the Santa Rita Mountains, matching Miller Peak in height and natural biodiversity.

Approximately 55 miles of the eastern half of Arizona's border with Mexico fall within the CNF jurisdiction, paralleling the mountain ranges running between four ports of entry: Sasabe-Sasabe, Nogales-Nogales, Naco-Naco and Agua Prieta-Douglas. The Tucson Sector of USBP oversees border security between these ports of entry and along the western diagonal border up to the Yuma sector. The Tucson sector confronts the largest number of illegal border crossers and makes the most apprehensions of all USBP sectors in the apprehensions of all USBP sectors in the country. By one estimate, 50 percent of all illegal border traffic (north and south) flows through the Tucson sector, and 50 percent of

Miller's Peak Wilderness

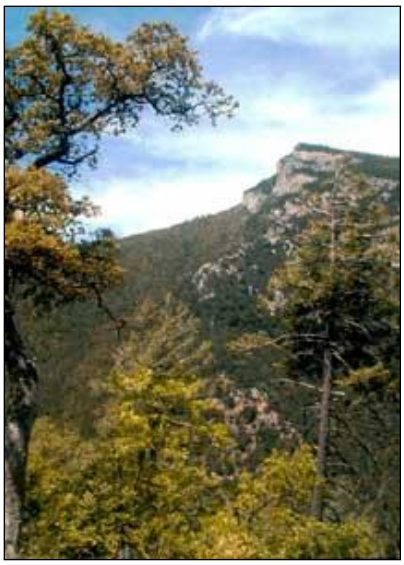


Photo: Wilderness.net

that moves through the CNF. The impacts to CNF have included scores of newly cut trails, damaged fence lines, human-ignited forest fires, litter, abandoned vehicles, and public safety concerns for recreationists and land managers in the field.

The challenges confronting CNF and the Tucson USBP sector led their field managers to start negotiating a joint strategic plan for handling border security on the Coronado. Once completed, the plan was signed in 2006 by the Chief of USBP and the Chief of USDA Forest Service. Unique among interagency border arrangements, the strategic plan drew a "Maginot line" across the CNF road system as close to the border as possible providing USBP with good access and the right to manage it, under the CNF authority. The strategic plan allows for forward operating bases in CNF and CNF has allowed four, one in the Peloncillo Mountains, two in the Huachuca Mountains,

and one in the Tumacacori Mountains. The plan also designated the location for heli-spots for future operational capacity if needed. This enabled the USFS Law Enforcement Officers (LEOs) to get special equipment and resources operating below Interstate 10. A few new roads were cut, but not through wilderness. There have been no vehicle incursions by USBP into the CNF border wilderness areas. The plan, which continues as the basis for USBP and CNF operations today, clarifies and integrates different levels of cooperative management. USFS LEOs are also incorporated into the plan with a focus on public safety for multiple use lands.

The operational impacts on public lands of border security enforcement and who pays for them has presented interagency problems along the border, particularly when the Economy Act of 1932 restricts resource sharing among federal departments. The CNF-USBP strategic plan addressed several of these issues. For example, as specified in the strategic plan, CNF maintains its road system to meet its specific needs every year. For those border roads used by USBP in patrolling and pursuit activities, USBP contracts with USFS crews through the Army Corps of Engineers under a Department of Defense contracting provision to maintain those roads to required operational levels for USBP. Such additional maintenance must be consistent with the respective CNF road level designation (e.g. USBP cannot pave a road for its purposes, if the CNF designated road level is unpaved). Similar sub-contracting mechanisms are provided for USBP to access CNF long-line helitack crews in the event of forest fire or other emergencies.

The pedestrian fences and vehicle barriers constructed along the border contiguous to CNF appear to be having an effect on the amount of vehicular traffic entering CNF and adjacent lands. For example, as one CNF official indicated, a few years ago there were some 56 abandoned vehicles strewn between Nogales and Buenos Aires National Wildlife Refuge. All but one or two of these have been removed (the majority at USBP expense) and to date no additional vehicles have been left by border crossers in those areas. That said, the USBP strategy "has pushed crossers to the vertical," meaning, up into more remote mountainous areas, including designated wilderness areas, to slow down their journeys and allow for apprehensions once the crossers head down toward the public roads and highways. This strategy has intensified the impacts of crossers in remote rugged terrain.

Sources: Interviews with CNF Administrators and USBP officials; CNF support documents at http://www.fs.fed.us/r3/coronado/

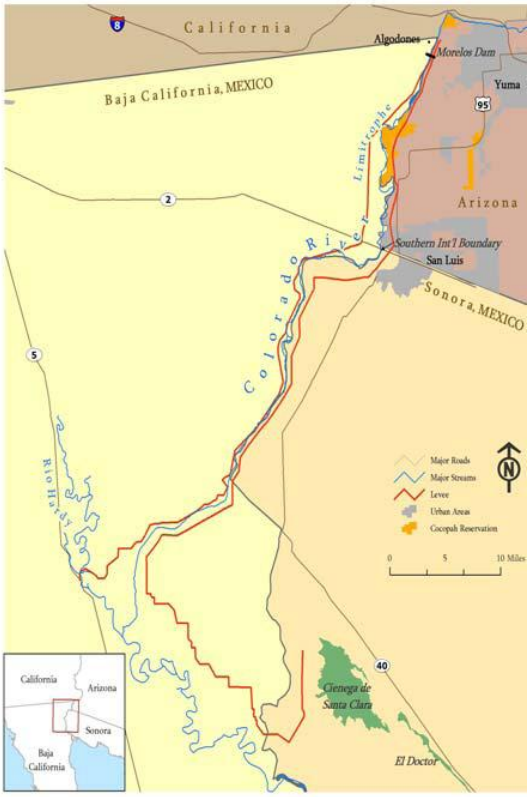
Lower Colorado River Limitrophe Restoration

This case describes an opportunity that can arise on the border where both security and conservation interests are served by a joint operation to control invasive vegetation and restore native species.

From the southernmost boundary between California and Arizona flow 23 river miles separating the U.S. from Mexico and the Cocopah Tribe in the U.S. from its Mexican relatives, the Cucapá. This slim but internationally significant riparian area, called the Lower Colorado Limitrophe, has undergone dramatic changes due to upstream dams and

water diversions over the last century. Despite these changes, the fragile, yet resilient Limitrophe has continued to support some of the last remaining stands of native riparian cottonwood, willow and mesquite trees along the lower Colorado River and serves as an important nesting and migratory route for numerous bird species. One of the major threats to riparian health along the Limitrophe has been the invasion of exotic species choking out natural riparian vegetation, chief among them the tamarisk, also called salt cedar.

Map of the Lower Colorado River Limitrophe



Arizona Riparian Council Newsletter January 2007

This riverine border has also suffered an invasion of illegal border crossing activity over the years, described by one U.S. Department of the Interior official in his 2008 testimony before Congress as including "high numbers of rapes, robberies, and assaults on immigrants and USBP agents...Heavy vegetation (particularly the dense salt cedar along the Limitrophe) provided cover to drug traffickers and other criminals." Fortunately, the level of illegal crossing activity has slowed considerably in the Yuma USBP Sector in the last few years (U.S. Department of Homeland Security July 2009). According to one Yuma USBP agent I interviewed, the border traffic "has been drastically reduced. We have been able to achieve a level of control that is quite palpable and done by cooperation with other agencies."

The need to control the salt cedar as well as the criminal element in the Limitrophe created a productive opportunity for the land management agencies and the Department of Homeland Security to work together. The stage was set for such collaboration back in 2002, when the Cocopah Tribal Council along with the National Wildlife Federation brought together over 20 local organizations, NGOs, and government agencies from both sides of the border to begin to address the restoration of the Limitrophe and the Colorado Delta. In a 2005 report, the Limitrophe received international recognition as a conservation priority for the Sonoran Institute, Environmental Defense Fund, University of Arizona, Centro de Investigacion en Alimentacion y Desarrollo, Pronatura Sonora and the World Wildlife Fund. Shortly thereafter, the Cocopah Tribe's Environmental Protection Office was funded by the Environmental Protection Agency, Bureau of Indian Affairs, BLM and other federal agencies to start selective clearing of the invasive salt cedar on some 265 acres. The Department of Homeland Security, U.S. Fish and Wildlife Service and the

National Fish and Wildlife Foundation funded the tribe to restore another 150 acres as well. The river and its wetlands began to respond.

In 2008, the Arizona Ecological Services issued a Biological Opinion that granted a right-of-way to the Army Corps of Engineers, working on behalf of the Border Patrol, for vegetation treatment of an additional 560+ acres over the course of the next 10 years on Bureau of Reclamation land in the Limitrophe. As part of this interagency effort, proposed by the BLM, the Customs and Border Protection agency will carry out several conservation measures including revegetation of native species while enabling continued maintenance of clear sight lines for USBP and other law enforcement agents.

In 2006, BLM started work on a resource management plan for the area while salt cedar removal continued on the ground, leading an intergovernmental team, including the Cocopah Tribe, the Department of Homeland Security, the Bureau of Reclamation, the Fish and Wildlife Service, the State of Arizona and Yuma County. In the January 2010, the Yuma BLM field office issued the final Record of Decision and Approved Resource Management Plan (RMP) that formally extended this interagency cooperation by establishing The Limitrophe Coordinated Management Area (CMA).

The Limitrophe CMA encompasses 4,500 acres and is now subject to special management practices and prescriptions guided by an intergovernmental partnership. While the CMA is located largely on Bureau of Reclamation lands, the responsibility for recreation and wildlife habitat management has been assigned to BLM. As the RMP states, “There are numerous jurisdictions managing varying aspects of the resources, along with a variety of stakeholders with interests in the Limitrophe.”

The intent of the Limitrophe CMA is to unite the mandates, activities, and responsibilities of multiple jurisdictions and stakeholders while providing a level of protection to the riparian, cultural, and traditional resource values of the area. The primary management actions to be undertaken by the CMA are to restore or increase riparian areas where salt cedars have

Border Security Clearing Project, 2006 - BEFORE

Border Security Clearing Project, 2006 - AFTER

Photos: Cocopah Indian Tribe: http://*www.cocopah.com/environmental.html*

taken hold and treat vegetation along the international border to improve visibility for USBP observation but reduce the cover for illegal or clandestine activity. A memorandum of understanding (MOU) is being developed among the partners and interested stakeholders to guide the future of the Limitrophe. Among the specified goals for future CMA collaborative management are the protection of riparian resources in balance with provision of public health and safety on the International Border.

Sources: U.S. Department of the Interior Bureau of Land Management 2010; Reeves 2007; Valdez 2008; Voggesser 2006, 2007.

2010 Imperial Sand Dunes Recreation Area Management Plan (RAMP)

This case demonstrates how USBP can contribute to resource management planning as a cooperating agency.

The Imperial Sand Dunes Recreation Area (ISDRA) in the southeastern corner of California is one of the largest dune complexes in North America, extending more than 40 miles at an average width of five miles across what was once an ancient inland lake. Known primarily as an excellent venue for off-highway vehicle (OHV) driving, it is the most heavily used OHV area in the Western U.S. (at its busiest, over 160,000 reportedly gather on Thanksgiving weekend). ISDRA also offers dramatic desert scenery, backcountry recreation, and unique dune wildlife and vegetation.

The southern boundary of ISDRA runs along the international border for about 12 miles, which is now clearly demarcated by the border fence. ISDRA is managed by the El Centro office of the Bureau of Land Management (BLM) and border security is overseen by the El Centro USBP sector. Prior to the installation of the border fence, this area was well-travelled by illegal border crossers who could often blend right in with the crowded field of OHV'ers on their own quads or dune-buggies. In the early 2000's, the El Centro sector was second only to Tucson in the number of apprehensions. It was along this stretch of Interstate 8 in the ISDRA in January 2008 that a USBP agent was struck and killed by smugglers as he was laying spike strips across the road to impede their getaway.

In 1994 Congress established the North Algodones Wilderness as a protected area in the middle of the dune system, where the flat-tailed horned lizard, desert tortoise, and the Colorado fringe-toed lizard survive in temperatures that can reach 120° F. Peirson's milk vetch (PMV), a federally and state-protected plant, also grows there within a 53,000 acre area that stretches in a narrow band northeast to southwest across the wilderness and the other two sections of ISDRA. This is the only area within the U.S. where this species now grows and represents 75-80 percent of the world's known PMV colonies.

OHV on the Border in Imperial Sand Dunes National Recreation Area

Photo: Don Bartlett/Los Angeles Times

Protection of the PMV has not been without controversy over the past decade, as OHV use has increased and border activity has become more salient. Various management efforts have been challenged in court by environmental advocates since 2000. In 2008, the US Fish and Wildlife Service (FWS) designated a total of 12,105 acres as critical PMV habitat spread across the three ISDRA sections. In the 2010 Imperial Sand Dunes Recreation Area Management Plan (RAMP) the location and extent of protection for this critical habitat was of central concern, since protection essentially requires the exclusion of any vehicles, including OHVs.

When BLM staff began drafting the Imperial Sand Dunes RAMP and EIS in 2008, they sent out requests to several federal, state and local agencies for their participation as cooperating agencies. The USBP El Centro sector was one of only two agencies who stepped up to be cooperating agencies. During the development of the draft, USBP staff attended all meetings and functioned as active members of the interdisciplinary planning team. They were particularly helpful in providing assistance with the sections in the draft on public health and safety and on the analysis of where OHVs should be allowed or prohibited from going. In the draft preferred alternative, which has been included in the March 2010 Draft ISDRA RAMP and EIS now out for public comment, 11,670 acres of PMV habitat would be closed to OHV use, including an area right on the border. USBP supported the protection of the PMV and the closing of areas to OHV, understanding that this would also increase security near the border. While this designation would constrain their future ability to place infrastructure there, USBP still would retain the authority in an emergency to pursue illegal border crossers in the closure area adjacent to the border. The draft preferred alternative keeps the remainder of ISDRA lands adjacent to the border open to the public and OHV use, including the Roosevelt strip, in contrast to four of the eight alternatives, which would have limited public access.

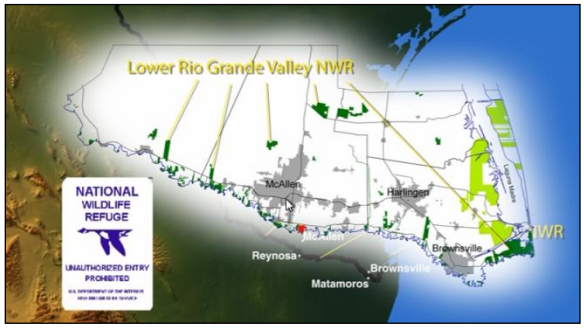
Sources: Interviews with ISDRA and USBP officials; ISDRA background information http://www.blm.gov/ca/st/en/fo/elcentro/recreation/ohvs/isdra.html ; ISDRA RAMP U.S. Department of the Interior Bureau of Land Management 2010.

Cooperation between US Fish and Wildlife and USBP on the Lower Rio Grande Valley NWR

In this case, cooperation between USBP and the Lower Rio Grande Valley National Wildlife Refuge (LRGV NWR) in planning future road closures and restoration work suggests the potential for ongoing interagency collaboration in the future.

While the state of Texas does not have federally designated Wilderness Areas along the U.S-Mexico border, the southern portion of its 275-mile border along the Rio Grande River coincides with a system of federal nature preserves, known as the Lower Rio Grande Valley National Wildlife Refuge (LRGV NWR). Established in 1979 and managed by the US Fish and Wildlife Service (USFWS), the LRGV NWR encompasses 135 separate land parcels along the lower stretch of the Rio Grande River. This protected "ribbon of life" represents the remaining four percent of a native habitat that was once a much more extensive, functioning ecosystem. LRGV NWR's special biodiversity still

supports 20 endangered or threatened species, including two rare cat species, the ocelot and the jaguarundi. As a wildlife corridor for terrestrial and riverine species, it also underlies two significant international flyways for migratory birds.



As with the Lower Colorado Limitrophe, the vegetative cover for critical wildlife has also been very effective cover for illegal border crossers and drug smugglers. In 1999, over half a million apprehensions were made by the Texas USBP sectors (37 percent of all U.S-Mexico border apprehensions). In the next 10 years, however, apprehensions along the Rio Grande border were reduced by over 30 percent to 175,596. However, illegal border crossing remained relatively high in the southernmost Rio Grande Valley.

The Lower Rio Grande in deep South Texas

Photo:USFWS

Cooperation between USBP and LRGV NWR had begun in the late 1990s, interestingly, as an outgrowth of conflict. A lawsuit over USBP operations on refuge lands resulted in a requirement for USBP to file biological opinions for future actions in the refuge system in accordance with a set of best operating practices. Thus, before 9/11, Texas USBP sectors had been developing more experience and protocols for planning for and mitigating impacts on natural resources along the Rio Grande. In 2007, the U.S. Department of Homeland Security (DHS) received funding to address border security infrastructure in the Rio Grande Valley. Many of the targeted areas were located in the LRGV NWR. Both USBP and LRGV NWR recognized that some of the proposed new security measures would likely impact sensitive wildlife areas, which led to strengthening the interagency cooperation that has continued to this day.

As the segments of the border wall/fence near completion in the Lower Rio Grande Valley and USBP has more operational control over unauthorized crossing, discussions are now underway between FWS and USBP about whether and how to eliminate some of the roads within the LRGV NWR system that had developed during the earlier period of intense border crossing and enforcement activity. Redundant roads once needed for intensive patrolling and surveillance may not be necessary now in some areas where the border fence is in place. There are opportunities for the agencies to continue working together to close and reforest some of these previously impacted areas. Currently, all the roads are inaccessible west of La Coma due to flooding, so further progress must await the dry season.

Sources: Interviews with and reports from LRGV NWR officials; Vivamontes and Brown 2008; LRGV NWR background information at http://www.fws.gov/southwest/refuges/texas/STRC/lrgv/index_LRGV.html

The Proposed Organ Mountains – Desert Peaks Wilderness Act, Senate Bill 1689 in the 111th Congress

This case suggests ways in which the use of consultation and stakeholder input can assist in fashioning new wilderness areas on the border without jeopardizing important security considerations.

Congress has designated 58 Wilderness Study Areas (WSAs) in New Mexico totaling close to 1 million acres. Most of these WSAs are within lands managed by BLM. Many have been identified and recommended by BLM as suitable for preservation as wilderness in accordance with requirements of the Federal Land Policy and Management Act (FLPMA) and the Wilderness Act of 1964. These 58 areas were inventoried as substantially roadless areas and qualified as WSAs primarily because of their natural state, the opportunities they afforded for solitude and backcountry recreation, and their ecological, geological, scenic or other special values.

Thirty of BLM's WSAs are in southern New Mexico and eight of them are currently being proposed (in part or in whole) for Wilderness or National Conservation Area (NCA) designation in S. 1689, the Organ Mountains –Desert Peaks Wilderness Act. This wildland complex that would be protected by S. 1689 includes high desert mountain ranges and some of the connecting valleys of the northern Chihuahuan Desert ecosystem. Expanding development and habitat fragmentation are the major threats to this proposed wilderness area that supports close to 4,000 species of plants and animals. The notable scenic and geologic features in this complex include the dramatic Organ Mountains that rise to 9,000 feet and frame Las Cruces's eastern border, the Robledo and Las Uvas Mountains to the west of Las Cruces and connected by Broad Canyon, and the rugged volcanic cinder cone landscape 35 miles southwest found in the Potrillo Mountains/Mt. Riley/Aden Lava Flow Complex. Once traversed by the Butterfield Trail, this area is also recognized as an important complex of wildlife habitats and corridors.

The development of the proposed legislation offers a useful example, not only of the consultative process itself, but of the substantive approach to configuring new wilderness on the border and providing for effective security measures.[2] Efforts to designate these wilderness and NCA areas began five years ago, begun in tandem with then Senator Pete Domenici and the New Mexico Wilderness Alliance and fostered by a coalition of civic, environmental, and outdoor recreation interests. Interest was strengthened through the work of Las Cruces City and Doña Ana County planning staff who spearheaded a regional land management committee that included stakeholder groups representing developers and homebuilders, non-motorized recreation, sportsmen, ranchers, business and economic development, conservationists and community action groups. By 2006, a citizens' proposal for public lands protection was put forward and formally endorsed by the county and every other incorporated community within the county, including Las Cruces. Despite the

[2] This summary focuses on the southern portion of the full wilderness complex, the Potrillo Mountains, Aden Lava Flow, and Mt. Riley WSAs, and does not describe the NCAs, and other extensive consultation and resulting changes in the proposed designations to accommodate non-border security interests.

broad-based consensus behind the proposal, opposition arose from various quarters, including the Off-Road Vehicle (OHV) community, some ranchers, and some stakeholders concerned about border security.

West Potrillo Mountains

Photo: BLM

The USBP El Paso Sector manages the state's entire border with Mexico outside of the Ports of Entry (POEs). USCBP's operational control of the El Paso POE and environs, despite the violence to the south in Mexico, has reduced illegal border crossing significantly. Apprehensions in the whole sector have gone down by over 70 percent in the last 10 years. The rest of New Mexico's international border has experienced the lowest level of crossing activity of any of the other southern border reaches. By one recent estimate, the number of daily illegal border apprehensions in the 50+ mile stretch below the Potrillo Mountains is less than five per day, averaged across the last year and a half. Normandy-style vehicle barriers across that section of the border have been in place since December 2008. Nonetheless, concerns about the potential for increases in smuggling and other criminal activity at the border were understandably fueled by the murder in March 2010 of a Southern Arizona rancher and member of the Malpai Borderland Group, which conducts restoration work on rangeland in southeastern Arizona and the "boot heel" of New Mexico.

Recognizing that border security was important in this area, U.S. Senator Jeff Bingaman's office consulted with both the BLM and USBP when drafting of the legislation began in the beginning of 2009. Ideas on how to address border security and other needs in the Potrillos complex arose from these agency consultations and trips into the field with USBP agents, supplemented by individual discussions with every rancher with grazing allotments in the areas considered for designation, sportsmen, and other stakeholders. Some stakeholders cited border security as their primary concern related to the bill.

For border security, the most central concern was the need for creation of an extended buffer between the border and the Potrillo Mountains' southern wilderness boundary, particularly one further north of the east-west highway that is the southern boundary of the existing WSA. Currently, in some areas USBP has only one-third of a mile from the border to the current WSA boundary in which to conduct routine activities and install infrastructure. Additionally, USBP wanted the new southern boundary for the Potrillo Mountains wilderness to exclude higher elevation sites proposed for surveillance equipment as well as key roads used by USBP. These concerns resulted in modifications to the citizens' proposal that required release of nearly 16,000 acres from WSA status that would result in a buffer between the border and the southern boundary of the Potrillo Mountains wilderness of no less than three miles in width. The release of this acreage was incorporated into the first version of S. 1689 introduced by Senators Jeff Bingaman and Tom Udall in September 2009. Two public hearings were

conducted, one in Washington, DC in October 2009 and one in Las Cruces in February 2010, at which border security concerns continued to be expressed.

Continuing consultation over the next four months with the USBP sector and with USCBP officials in DC, as well as with the county sheriff's office, led to further revisions to the legislation and the incorporation of a designated "restricted use zone" to create an enlarged buffer (running an additional two miles north from the proposed thee mile buffer). The 16,525-acre restricted use zone would not allow motorized use by the public, but would allow it for administrative purposes, including law enforcement activities by USBP. Within this zone, USBP would also be able to place surveillance and other enforcement-related infrastructure as needed. Other modifications were made as well, including the designation of a restricted administrative east-west road through the wilderness further north to aid USBP surveillance and pursuits, allowing low-level overflights over the wilderness areas for law enforcement purposes, and excluding an additional site needed for a critical communications tower from the proposed wilderness. Some important clarifications of the 2006 interagency MOU were made as well (e.g., to reiterate authorization of motor vehicle use in the wilderness for pursuit of suspected illegal border crossers). While this is reiteration of existing law, the clarifications are important to demonstrate no intent to change existing law and to provide clear reassurance to the public. These modifications were all incorporated into a revised bill that was passed unanimously out of the Senate Energy and Natural Resources Committee on July 21, 2010, and is now ready for consideration by the full Senate.

This expanded buffer between the border and the proposed Potrillo Mountains wilderness area will enable USBP to concentrate its patrolling and pursuit activities and become more effective closer to the border, south of the wilderness boundary, which should reduce impacts of border crossing and enforcement activities in the wilderness further to the north. From the USBP perspective, as expressed by Alan Bersin, the Commissioner of USCBP, these provisions "would significantly enhance the flexibility...to operate in this border area." And while the BLM and USBP work well together in the region already, the buffer, boundary changes, and use allowances in S. 1689 should help avoid potential conflicts in the future.

Sources: Interviews with BLM and USBP officials, area stakeholders, and legislative staff; S. 1689 2009; New Mexico Wilderness Alliance newsletters http://www.nmwild.org/; media coverage, principally in *Las Cruces Sun Times* *http://www.lcsun-news.com/*.

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Wilderness Act of 1964, as amended (16 U.S.C. §§1131-1136).