



Committee on
HOMELAND SECURITY
Chairman Michael McCaul

Opening Statement

July 10, 2014

Media Contact: April Ward
(202) 226-8417

**Statement of Subcommittee Chairman Jeff Duncan (R-SC)
Subcommittee on Oversight and Management Efficiency**

“The Executive Proclamation Designation the Organ Mountains-Desert Peaks a National Monument: Implications for Border Security”

Remarks as Prepared

On May 21, 2014, President Obama designated the Organ Mountains-Desert Peaks area in southern New Mexico as a National Monument. The President’s action ignored legislation introduced in both chambers of Congress, which had buy-in and support from a broad coalition of state and local stakeholders and constituencies.

Specifically, Congressman Steve Pearce introduced H.R.995 which would have established an area in the Organ Mountains as a national monument, while granting law enforcement and other emergency personnel “unfettered access” to the monument. His bill had letters of support from the Governor of New Mexico, the Las Cruces Hispanic Chamber of Commerce, Western Heritage Alliance, Dona Ana Soil and Water Conservation District, Mesilla Valley Sportsmen’s Alliance, the National Association of Former Border Patrol Officers, and I could go on.

Instead of allowing the legislative process to proceed, the President ignored the concerns of state and local law enforcement, ranchers, sportsmen, and others and chose to designate the Organ Mountains-Desert Peaks area a monument with the stroke of a pen. Due to the President’s designation, the U.S. Border Patrol, as well as, state and local law enforcement officers will be prevented from having full access to nearly 500,000 acres of land near the Mexican border. The Border Patrol must now comply with the requirements of several federal land management laws, including the National Environmental Policy Act, Wilderness Act, and Endangered Species Act—some of which will limit access to the monument except for on-foot or horseback.

Absent exigent circumstances such as an emergency or active pursuit of suspects, the Border Patrol will need to coordinate federal land management agencies when agents undertake operations, such as maintaining roads and installing surveillance equipment, on federal lands. According to Border Patrol, a

2006 memorandum of understanding between the Departments of Homeland Security, Agriculture, and the Interior provides the necessary guidance for its activities on federal lands. However, a Government Accountability Office (GAO) report from 2010 showed that this approach resulted in delays and restrictions of Border Patrol's monitoring and patrolling operations. Given that we are facing a major crisis along our southwest border, any decision that creates yet additional vulnerability is unacceptable.

Human and drug smugglers have used the area for smuggling in the past. The Doña Ana County Sheriff's Office has apprehended drug smugglers, confiscated stolen cars used for human and drug traffickers, and rescued injured individuals left by their smugglers. Due to the designation of the national monument, local law enforcement and the Border Patrol will be restricted to the few paved-surface roads, none of which traverse the entire 500,000 acres. The designation also prohibits the use of all-terrain vehicles off of paved-surface roads. The lack of roads throughout and access to all federal lands of the monument creates a potential vulnerability for criminals and others to go unchecked.

As a result, this newly designated national monument is practically an invitation to drug-runners and human smugglers, as if they even needed one. And I have not even mentioned the possibility that those who would seek to harm us including vicious drug cartels, transnational gangs, and terrorist groups like Hezbollah or others could try to breach our sovereignty in order to carry out possibly heinous acts. It's critical for Border Patrol and state and local law enforcement to work together to determine how they will reduce the likelihood that this area becomes a sanctuary for these groups.

In addition, despite the good intentions of trying to protect important environmental areas, this designation may have the opposite effect of harming this land. I doubt seriously that smugglers will protect it from pollution and those patrolling will have less access to help prevent such abuse.

It's truly ironic that President Obama said in 2008 that, "the biggest problems that we're facing right now have to do with George Bush trying to bring more and more power into the executive branch and not go through Congress at all. And that's what I intend to reverse when I'm president of the United States of America."

Despite his "hope and change" rhetoric the President's aggressive unilateralism continues. The President's policies along the border continue to undermine federal, state, and local efforts to secure the border and enforce the law of the land. And the President continues to take executive actions to circumvent the Congress without considering the legitimate concerns of the very Americans living with the daily threats along the border.

###