



Border Bill Could Close Public Land Access

Trumped up National Security Concerns Would Gut Public Health Laws, Close Access to Public Lands

Rep. Rob Bishop (R-UT) is promoting a bill in the House Natural Resources Committee that could have serious effects on economic and recreational activities on public lands that belong to all Americans. [H.R. 1505](#), the National Security and Federal Lands Protection Act, would give the Department of Homeland Security overwhelming powers to shut down access to public lands—without any sort of public announcement—in the name of national security.

This bill is a drastic overreach that would not have any legitimate effect on border security. The bill is merely another attempt by antiregulatory voices to advance their agenda of eroding important laws that ensure our citizens have clean air, clean water, and a right to recreate on the lands that belong to us all. Through the systematic erosion of these laws, conservative members will allow more access by industry, trading our parks for corporate profits.

H.R. 1505 would give the Department of Homeland Security the authority to shut down any economic or recreational activity within 100 miles of any U.S. border or coast. The bill mandates that DHS would have full access to any public lands for any purpose if deemed necessary for “securing the border,” including erecting fences, gates, and roads. This means some of Americans’ favorite activities in some of our favorite places—fishing in Glacier National Park, off-road vehicle use in the Idaho Panhandle National Forests, and snowmobiling in Superior National Forest—could all be suddenly closed subject to the whims of one federal agency, without any sort of public notice whatsoever. [[Sierra Club](#)]

The development of natural resources such as timber, coal, oil and gas, and grazing lands could be shut down by DHS at a moment’s notice. Many of the places affected by the bill are America’s economic drivers. For example, the Allegheny National Forest in Pennsylvania has more oil and gas development than all other 154 national forests combined and is within the 100-mile zone designated in this bill. Serious questions remain about what effect H.R. 1505 would have on stymieing the multiple uses of our public lands. [[Pittsburgh Post-Gazette](#)]

The Department of Homeland Security has previously testified that it has a “close working relationship” with the land management agencies. This bill is predicated on the false fact that cultural, environmental, and public lands laws are hampering border security. Ronald Vitiello, deputy chief of U.S. Customs and Border Protection, testified in April 2011 that “[Customs and Border Protection] enjoys a close working relationship with [the Department of the Interior] and [the U.S. Department of Agriculture] that allows CBP to fulfill its border enforcement responsibilities while respecting and enhancing the environment.” In addition, the Department of the Interior and the Department of Agriculture signed a memorandum of understanding with Customs and Border Protection in 2006 to better facilitate cooperation. [[Customs and Border Protection](#)] [[Department of the Interior](#)]

Two-thirds of the U.S. population lives in locations affected by this bill, and yet it provides exemptions from critical public health laws. The bill would also allow exemptions from all or part of 36 environmental laws. So the Safe Drinking Water Act, the Clean Air Act, and the Superfund Act could all be rolled back within 100 miles of a U.S. border or coast with the passage of this bill. That means inhabitants of cities like Los Angeles, New York, Chicago, Washington, D.C., and Houston could be put at risk of more polluted air and water. This bill presents a false choice between endangering the health of American citizens who live near our borders and homeland security. [[Sierra Club](#)]

The Department of Homeland Security already has extraordinary authority to waive environmental laws along the U.S.-Mexico and the U.S.-Canada border. The 2005 REAL ID Act, partially intended to facilitate the building of the border wall along the U.S.-Mexico border, gave the secretary of homeland security “the authority to waive all legal requirements such Secretary ... determines necessary to ensure expeditious construction of the barriers and roads under this section.” These waivers have already been used to revoke environmental laws in order to build the border wall and for other border security purposes. [[Public Law 109-13](#)] [[Department of Homeland Security](#)]

In a radical overreach, all or part of 36 laws could be rolled back for federal lands within 100 miles of the border or coasts

- National Environmental Policy Act
- Endangered Species Act
- Federal Water Pollution Control Act
- National Historic Preservation Act
- Migratory Bird Treaty Act
- Clean Air Act
- Archaeological Resources Protection Act
- Safe Drinking Water Act
- Noise Control Act
- Solid Waste Disposal Act
- Superfund Law, or CERCLA
- Archeological and Historic Preservation Act
- Antiquities Act
- Historic Sites Act
- Wild and Scenic Rivers Act
- Farmland Protection Policy Act
- Coastal Zone Management Act
- Wilderness Act
- Federal Land Policy and Management Act
- National Wildlife Refuge System Administration Act
- Fish and Wildlife Act
- Fish and Wildlife Coordination Act
- Administrative Procedure Act
- Otay Mountain Wilderness Act
- California Desert Protection Act
- National Park Service Organic Act
- National Park System General Authorities Act
- National Parks and Recreation Act
- Arizona Desert Wilderness Act
- section 10 of the Rivers and Harbors Appropriation Act of 1899 (navigable waters)
- Bald And Golden Eagle Protection Act
- Native American Graves Protection and Repatriation Act
- American Indian Religious Freedom Act
- Religious Freedom Restoration Act
- Forest and Rangeland Renewable Resources Planning Act
- Multiple-Use Sustained-Yield Act.

Eight laws designed to protect the heritage and sacred sites of Native Americans would be waived by this bill. These exemptions would severely inhibit the freedom and rights of tribes to raise concerns about impacts of border security activities on cultural resources. This bill will render tribal issues moot when it comes to issues of national security.

Being serious about national security means supporting the budget for federal, state, and local security activities. Unfortunately, in their H.R. 1 spending bill for fiscal year 2011, House Republicans cut funding to the Department of Homeland Security by 6.8 percent below the president's request, essentially returning the agency to 2009 funding levels. Additionally, state and local homeland security grant programs, which are used for on-the-ground disaster assistance, major emergencies, and first responders to terrorist attacks, were cut by 65 percent below the president's request. This could have dramatic effects—as the National Association of Counties stated, “States and local governments can only achieve the highest level of preparedness, response and recovery if the federal government properly continues to fund these critical programs. Preserving these funds ensures that state and local governments implement statewide and regional strategies, essential resources and capabilities for state and local first responders are not jeopardized, and basic levels of all hazard preparedness, prevention, response and recovery across the nation are enhanced.” [[Homeland Security Subcommittee Ranking Member David Price \(D-NC\)](#)] [[National Association of Counties](#)]

This bill is another thinly veiled attempt by House Republicans to chip away at their environmental hit list. Rep. Bishop and the co-sponsors of this bill are trumping up national security concerns rather than identifying H.R. 1505 as another effort at their antiregulation agenda. While continually attacking the laws that protect our clean air and clean water under any disguise, the GOP has repeatedly voted to protect tax breaks for Big Oil and other special interests. This is the next attempt to game the system in order to trade our parks and water for corporate profit.