

**Statement of Nan Stockholm Walden**  
**The Consequences of Federal Land Management Along the**  
**U.S. Border to Rural Communities and National Security**  
**House Committee on Natural Resources**  
**Subcommittee on Oversight and Investigations**  
**April 28, 2016**

**I. Introduction**

Chair Gohmert, Ranking Member Dingell, members of the Committee, I am Nan Stockholm Walden, Vice President and Counsel for Farmers Investment Co., (FICO), Farmers Water Co. (FWC) and The Green Valley Pecan Company in Sahuarita, Arizona. I appreciate the opportunity to address the Committee on public lands issues in the vicinity of the US/Mexico border.

FICO is a major agricultural enterprise founded by my husband's father R. Keith Walden almost 75 years ago. Today, my husband, Dick Walden, who is the President and CEO of the company, and the third generation of Waldens, including daughter Deborah and son Rich, are active in the company.

We employ 260 permanent workers, many of whom also are second and third generation FICO employees, whom we consider family, as well. During harvest season, we hire an additional 50 to 60 workers, making us one of the larger employers in Pima County.

FICO is the largest integrated grower and processor of pecans in the world. We are also the largest producer of organic pecans. Research has shown that pecans are rich in antioxidants, can lower harmful LDL cholesterol, and contain 19 essential vitamins and minerals, as well as being an excellent source of protein. FICO sells pecans to food manufacturers including makers of cereals, health bars, ice creams, candies and bakery goods, to retail chains that package our nuts under their label, and directly to customers—both here and abroad. We also buy pecans from other growers in the U.S. and Mexico.

FICO owns approximately 11,000 acres in Southern Arizona, of which about 7,500 acres are irrigated and under cultivation for pecan nuts, a tree native to North America.

The FICO headquarters is located just over 40 miles north of the border, and our home ranch is just less than 30 miles. Our property in Amado is a horse and cattle operation that includes 160 acres of private land and a 6,000-acre state grazing lease. We are well aware of the importance of public lands to agriculture and ranching.

Consequently, we have the first-hand experience with border security challenges, and we know the difficult job the Border Patrol is tasked to undertake. The Border Patrol has responded to calls on both our farm and our ranch. I might add that our Border Patrol Tucson Sector Ranch Liaison, Jake Stukenberg, does an excellent job helping us cooperate with Border Patrol.

Like many Arizonans, we have a special relationship with our public lands. Both our business and ranch are located near the Coronado National Forest, a major recreation venue for residents of Tucson, Green Valley, and the surrounding area. I have ridden horses, and hiked on the Coronado and have visited many of the other public lands in southern Arizona under the management of the National Park Service, the U.S. Fish and Wildlife Service and the Bureau of Land Management.

I also serve on the Board of Directors of the National Immigration Forum, a non-partisan organization that works with diverse constituencies especially business, faith and law enforcement leaders advocating for immigrants and responsible immigration policy. This policy must reflect immigrants' contributions to our nation's history, culture and growth, and their continuing contributions to our country's economy, especially in the agriculture and ranching sectors in rural communities.

The views I am offering today are informed by this context.

## **II. Economic Contribution of Public Lands**

Any examination of border security issues related to public lands must consider their economic value to rural communities. In southern Arizona, our public lands are significant regional economic contributors. For example, according to the Arizona Office of Tourism, tourism spending generates \$3.6 billion in economic activity annually and employs over 30,000 individuals in southern Arizona.<sup>1</sup> In 2012, a local tourism agency found that our natural environment is the **number one** reason visitors come to our community.<sup>2</sup>

Public land uses related to wildlife activity are also significant in our region. In 2011, watchable wildlife recreation activities, such as birding, generated over \$702 million in economic activity and supports in excess of 3,300 jobs in

---

<sup>1</sup> Arizona Travel Impacts 1998-2014p. (2015, June). Retrieved from [https://tourism.az.gov/sites/default/files/documents/files/AZImp14pFinal\\_1.pdf](https://tourism.az.gov/sites/default/files/documents/files/AZImp14pFinal_1.pdf)  
Report prepared by Dean Runyon & Associates

<sup>2</sup> DeRaad, B. (2/2014). *Visit Tucson Memo To Larry Hecker, Chairman, Pima County Bond Advisory Committee*. (Memorandum). Tucson, AZ.  
<http://webcms.pima.gov/common/pages/UserFile.aspx?fileId=78818>

the four county border region.<sup>3</sup> According to the most recent data available from the Arizona Game and Fish Department, hunting and fish add over \$324 million in economic activity and almost 2,300 jobs in this same 4 county border region.<sup>4</sup>

Moreover, southern Arizona has a legacy of ranchers working collaboratively with other stakeholders to address common challenges. These examples include collaborative efforts such as the Malpai Borderlands Group and the Altar Valley Conservation Alliance. Both of these groups work with land management agencies and the Border Patrol to maintain working landscapes, including improving grazing lands, while also protecting wildlife, managing fire to benefit the landscape, dealing with drought and erosion control and other challenges.

While public safety is of paramount concern, we must also consider the economic consequences of our actions.

### **III. Impact of Permanent Border Checkpoints on rural communities and public lands**

FICO has longstanding concerns about the effectiveness of permanent Border Patrol checkpoints and their impacts on the surrounding community including nearby public lands. We met often with former Rep. Jim Kolbe, and I served on Rep. Gabrielle Giffords' Citizens' Advisory Committee on Checkpoints.

Those of us that live in areas surrounding the checkpoint have, for years, been exposed to the degradation of our public safety because of them -- high-speed car chases through our neighborhoods, gunshot victims and the like. I have experienced a high-speed chase by Border Patrol through my front driveway in Sahuarita, AZ that I am sure would have killed an employee or me had I not been in my home office at the time. The result was that a couple and two young terrified kids were apprehended, but there were no weapons or drugs found in their car.

My neighbor at the Agua Linda Ranch was pushed down on the ground by Border Patrol agents around 10 pm one night when he was near his ranch

---

<sup>3</sup> Tucson Audubon Society: The Economic Contributions of Wildlife Viewing to the Arizona Economy: A County-Level Analysis. 2013. Southwick Associates /Arizona Game & Fish Department. <http://www.tucsonaudubon.org/images/stories/News/TAS-AZ-WildlifeWatching-Analysis-2011-130718.pdf>

<sup>4</sup>Silberman, J., PhD. (n.d.). *Economic Importance of Hunting and Fishing* (Arizona Game and Fish Department/Arizona State University). [https://www.azgfd.com/PortallImages/files/wildlife/FISHING\\_HUNTING%20Report Report.pdf](https://www.azgfd.com/PortallImages/files/wildlife/FISHING_HUNTING%20Report%20Report.pdf)

house, changing the irrigation set on his vegetables, dressed in his pajamas, despite the fact that he identified himself as the owner of the property.

Our neighbors and ourselves have had many similar experiences of livestock buzzed by helicopters flying too low over pastures, gates left open, fences cut and crossers asked to dump all their belongings on our property, which were left there, not confiscated. We have had numerous examples of Border Patrol agents being unfamiliar or lost on our ranch property, which is within a quarter mile of the major North/South Interstate, I-19.

A senior member of our team who happens to be Mexican-American was stopped by the Border Patrol 40 miles north of the border on her way from her home to work. She was driving a late model SUV with two young daughters in the back in car seats. When she asked why she was stopped, the Border Patrol Officer replied, "You fit the profile."

"What profile is that?" she asked.

"Driving a late model SUV and obeying the traffic laws and speed limit," was the reply.

Sharing these stories with you does not at all mean we do not appreciate the efforts of the Border Patrol. Rather, proper training is crucial to Border Patrol agents working successfully with rural communities. We have noted that because Border Patrol has significantly increased staffing levels in recent years, there is a lot of transferring agents from one sector to another, high rates of turnover, and lack of uniform training.

The Border Patrol strategy, "Defense in Depth," calls for retreating 30 or so miles from the border with fixed checkpoints. This strategy has us living in a no man's land and underestimates the intelligence of the enemy we are fighting—the drug and human smugglers. The assumption that these criminals will not circumvent fixed checkpoints and traverse through our neighborhoods, our ranches, our communities and our public lands is not based in reality.

There have been several in-depth examinations of the effectiveness and impacts of the Border Patrols checkpoint strategy.

GAO, August 2009<sup>5</sup> - This GAO report confirmed that the Border Patrol was proceeding without adequate information on the effectiveness of fixed checkpoints and their adverse impacts on the

---

<sup>5</sup> United States, Government Accountability Office (GAO). (2009). *Checkpoints Contribute to Border Patrol's Mission, but More Consistent Data Collection and Performance Measurement Could Improve Effectiveness* (GAO-09-824). Washington, District of Columbia.

public safety and quality of life of southern Arizona. GAO found that there were “information gaps and reporting issues” because of insufficient data, the agency was unable to compare the cost effectiveness of checkpoints to other strategies, and the Border Patrol had misrepresented its checkpoint performance. It also found that of all the apprehensions of illegal immigrants in the vicinity of the I-19 checkpoint in a certain fiscal year, “94% occurred in the areas surrounding the checkpoint, while only 6% took place at the checkpoint itself.” In other words, these statistics make it clear that the checkpoint was driving criminal activities into the areas surrounding the checkpoint.

Udall Center for Studies in Public Policy, the University of Arizona, December 2012<sup>6</sup> - After undertaking a detailed statistical analysis this study found that the I-19 checkpoint is having a significant impact on the property values of the community surrounding this facility. This means that rural communities in the vicinity of the checkpoint, like Tubac, Arizona, are bearing a disproportionate economic burden for this border security tactic.

Tubac is in a rural area 20 miles from the border. It has become a major draw for tourists and businesses due to its historical, cultural, artistic and recreational facilities. Yet we know of many visitors and potential residents who have cancelled vacations or real estate purchases due to concerns about the permanent checkpoint and appearance of extreme militarism in the area.

GAO, December 2012<sup>7</sup> - This report found, among other things, that because of data limitations the Border Patrol is unable to compare the effectiveness how resources are deployed among sectors. Each sector collects and reports the data differently thus precluding comparison. Policymakers and Border Patrol leadership are unable to effectively assess the effectiveness of tactics such as the checkpoint.

FICO believes that fixed permanent checkpoints threaten public safety in addition to resulting in significant economic consequences. It is clear in our view that they drive illegal activities away from the checkpoint into surrounding areas including federal public lands. Any policy review of border

---

<sup>6</sup> Gans, J., M.S., M. P (December 2012). *The Border Patrol Checkpoint on Interstate 19 in Southern Arizona: A Case Study of Impacts on Residential Real Estate* (Rep.). Udall Center for Studies in Public Policy, The University of Arizona.

<sup>7</sup> Government Accountability Office (GAO). (2012). *Key Elements of New Strategic Plan Not Yet in Place to Inform Border Security Status and Resource Needs*(GAO-13-25). Washington, District of Columbia.

security issues related to public lands must consider the impacts of these checkpoints.

#### **IV. Legislation regarding border security and public lands**

I would now like to turn to legislative efforts to address border security issues related to public lands. We are blessed in Arizona with magnificent national forests, national monuments, national wildlife refuges and historic sites at or near the U.S.-Mexico border. As noted earlier, these public lands are vitally important to our quality of life, recreation, and the local economy.

The very significant increase in Border Patrol agents assigned to the Southwest has led to many Border Patrol agents now working and even living on these public lands.

My understanding is that the relationship between the Border Patrol and the public land management agencies has evolved into a very constructive and well-coordinated relationship. The public land agencies have law enforcement staff with a deep knowledge of the landscape routinely work with Border Patrol agents. Land managers acknowledge the need for Border Patrol presence to patrol these lands and have developed both national and local procedures and processes that respect the Border Patrol's needs. Border Patrol agents may always use motorized vehicles in the interests of assuring public safety and national security.

The General Accountability Office (GAO) has undertaken studies that have examined the intersection of border security and environmental law. Not surprisingly and especially in the earlier years of increased Border Patrol presence, these reports documented some delays in border security infrastructure projects as the result of working with land management agencies. However, despite such incidents, "most patrol agents-in-charge told us that border security status of their jurisdictions had not been affected by land management laws. Instead, factors other than access delays or restrictions, such as the remoteness and ruggedness of the terrain or dense vegetation, have had the greatest effect on their abilities to achieve or maintain operational control."<sup>8</sup> For example, GAO testimony presented in 2011, relying on two 2010 GAO reports, noted that patrol agents-in-charge at 22 of the 26 stations on the Southwest border with federal lands in their areas reported that no portions of these stations' jurisdictions have had their border security status . . . downgraded as a result of land management laws."<sup>9</sup>

---

<sup>8</sup> "Southwest Border: Border Patrol Operations on Federal Lands", Statement of Anu K. Mittal, Director, Natural Resources and Environment, U.S. Government Accountability Office, April 15, 2011, p. 16.

<sup>9</sup> *Id.* P. 17.

GAO also noted examples of federal interagency coordination, which they found strengthened border security. Some examples of this include the placement of the forward operating bases on Organ Pipe Cactus National Monument and Cabeza Prieta National Wildlife Refuge and improvements to Forest Service roads to facilitate border security operations on the Coronado National Forest.<sup>10</sup>

I realize that there is a perception by some that the Border Patrol is “locked out” of public lands. People who spend time on public lands in southern Arizona find this assertion rather amazing, as there is considerable evidence of the Border Patrol’s presence, including regular patrols and law enforcement actions. It is a fact that CBP already has access on all federal lands<sup>11</sup>. Several thousand Border Patrol agents currently patrol public lands, the Tohono O’odham Nation, and the Barry Goldwater range in southern Arizona. There are Forward Operating Bases where agents live and work on Organ Pipe Cactus National Monument (95% wilderness) and Cabeza Prieta National Wildlife Refuge (93% wilderness). Here are some of the statements Border Patrol agents have made in relationship to this issue:

“But claiming agents would have to stop at wilderness designated areas or go around them is completely wrong,” said Border Patrol spokesman Ramiro Cordero. “Border Patrol is already permitted to monitor and enforce within wilderness areas,” Cordero confirmed Tuesday.

“We’re still allowed to patrol anywhere ... if there’s any danger or pursuit; we’re not going to stop. There’s no truth that we cannot go in (to wilderness areas). The federal authority gives us the authority to go anywhere,” Cordero said.<sup>12</sup>

Or more recently, the then Deputy Chief of the Border Patrol (now Acting Chief) had this to say in response to questions posed in the Senate Homeland Security and Government Affairs Committee:

---

<sup>10</sup> “Border Security: Additional Actions Needed to Better Ensure a Coordinated Federal Response to Illegal Activity on Federal Lands”, November 18, 2010. Memorandum from Stephen R. Viña & Todd Tatelman, Legislative Attorneys, Am. Law Division, Cong. Research Serv., on Section 102 of HR 418, Waiver of Laws Necessary for Improvement of Barriers at Borders, (Feb. 9, 2005).

<sup>11</sup> This includes wilderness areas. “Per the 2006 MOU [Memorandum of Understanding], Border Patrol agents have the authority at any time to conduct motorized off-road pursuit in the event of exigency/emergency involving human life, health, safety of persons within the area, or posing a threat to national security.” Statement for the Record, U.S. Customs and Border Protection, before the House Committee on Natural Resources, Subcommittee on National Parks, Forests, and Public Lands, ‘National Security and Federal Lands Protection Act’, Department of Homeland Security, July 8, 2011.

<sup>12</sup> “Wilderness impact on border security debated”, Las Cruces Sun News, May 11, 2010.

Senator Tester: Does the Border Patrol have access all along the border – on public and private lands?

Deputy Chief Vitiello: We're on the border everywhere – both private and public lands.

Senator Tester: What about Glacier National Park?

Deputy Chief Vitiello: Same answer, no particular problems.

Senator Tester: I don't want to put words in your mouth, but I do want to ask – do you need anything special to work in these areas? Any special tools?<sup>13</sup>

Deputy Chief Vitiello: No, no additional tools.

I also want to remind the Subcommittee that the Department of Homeland Security currently enjoys what the Congressional Research Service has characterized as the “broadest waiver of law in American history.”<sup>14</sup> That authority is still in effect and is still being used in Arizona. That provision has no sunset provision.

However, despite the Border Patrol's statements and their lack of advocacy for additional authority to waive laws, there are two bills pending in the House that would unilaterally waive laws. H.R. 1412, the misnamed Arizona Borderlands Protection and Preservation Act (which, among other things, applies to a portion of southeast California and all of Nevada), eliminates the rule of law for all actions of Customs and Border Protection on public lands. The bill's stated purpose is to “give” access to U.S. Customs and Border Protection (CBP) on federal lands “*notwithstanding any other provision of law.*” In other words, these law enforcement agencies will be given unprecedented police powers to stop “all” illegal entries. The bill exempts state and private lands, which would still enjoy implementation of the full panoply of laws while public lands would be relegated to a secondary position in which Americans living hundreds of miles from the border would not have the same federal protection of their civil rights and quality of life that exist elsewhere in the country.

---

<sup>13</sup> Senate Homeland Security and Government Affairs Committee, Hearing on Border Fencing, Infrastructure and Force Multipliers, May 13, 2015; at <http://www.hsgac.senate.gov/hearings/securing-the-border-fencing-infrastructure-and-technology-force-multipliers>, 1:25:55 – 1:28:30

<sup>14</sup> Memorandum from Stephen R. Viña & Todd Tatelman, Legislative Attorneys, Am. Law Division, Cong. Research Serv., on Section 102 of HR 418, Waiver of Laws Necessary for Improvement of Barriers at Borders, (Feb. 9, 2005).



H.R. 399, also pending in the House, similarly waives laws – in this case, specifically, the Administrative Procedures Act, the National Environmental Policy Act, the Wilderness Act, the Endangered Species Act, the National Park Service Organic Act, the National Historic Preservation Act, the Antiquities Act, the Arizona Desert Wilderness Act, the National Wildlife Refuge System Administration Act and several other laws – on public lands within 100 miles of the U.S. borders with Mexico and Canada. Again, this proposal is ill advised, unwarranted and not sought by the very agency it purports to assist. Rather, it appears to be a very specific assault on public lands and environmental laws.

While waiver of laws to protect our nation’s citizens, public lands, wildlife, and historic and cultural treasures could, in my view, seldom if ever be justified, it is especially inappropriate at this point when the number of apprehensions of unlawful border crossers has declined to the lowest level in forty years.<sup>15</sup> The fiscal year 2015 Customs and Border Protection Border Report found southwest border apprehensions had declined 30 percent in the last year and almost 80 percent below its peak in fiscal year 2000.<sup>16</sup> A March 2016 GAO study also found that the overall effectiveness rate of the Border Patrol increased in eight of the nine sectors on the southwest border - including a 20 percentage overall effectiveness rate increase in the Tucson sector – between fiscal years 2006 and 2011.<sup>17</sup>

DHS continues to deport individuals at significant levels following several record-breaking years. In fiscal year 2015, ICE announced it had deported 235,435 individuals. As of September 2015, the Obama administration had deported more than 2.1 million individuals.<sup>18</sup> This pace far surpasses the 1.57 million individuals deported during the eight years President George W. Bush was in office.<sup>19</sup>

---

<sup>15</sup> American Immigration Lawyers Association, *What’s Going on with Immigration Enforcement? Fewer Border Crossers, More Asylum Seekers*, 23 December 2015.

<sup>16</sup> U.S. Customs and Border Protection. Fiscal Year 2015 CBP Border Security Report. 22 December 2015.

<https://www.dhs.gov/sites/default/files/publications/CBP%20FY15%20Border%20Security%20Report%2012-21%200.pdf>

<sup>17</sup> Government Accountability Office (GAO). *Southwest Border Security: Additional Actions Needed to Assess Resource Deployment and Progress*. GAO-16-465T. 1 March 2016. <http://www.gao.gov/products/GAO-16-465T>

<sup>18</sup> U.S. Immigration and Customs Enforcement. *ICE Enforcement and Removal Operations Report Fiscal Year 2015*. 22 December 2015.

<https://www.ice.gov/sites/default/files/documents/Report/2016/fy2015removalStats.pdf>

<sup>19</sup> O’Toole, Molly. “Analysis: Obama Deportations Raise Immigration Policy Questions.” Reuters. Thomson Reuters, 20 Sept. 2011. <http://www.reuters.com/article/2011/09/20/us-obama-immigration-idUSTRE78J05720110920>

In this body, HR 4303, the Border Security and Accountability Act of 2015, appears to be a more comprehensive approach. Among other things, this legislation requires the Secretary of Homeland Security to develop and implement a comprehensive border security strategy and plan to implement this strategy, invest in our ports of entries, consult with border communities as well as local and state law enforcement agencies from southern border localities, and work with Mexico. It would also restore the full rule of law to our borderlands. This more comprehensive approach is worthy of consideration.

## **V. Comprehensive Immigration Reform**

As longtime business owners who live and work within 30 to 40 miles of the border, I cannot emphasize enough the inexorable link between border security and comprehensive immigration reform.

We understand the gravity of the border situation—the drug-associated violence, human smuggling, and environmental impacts—as well as the impacts of some enforcement activities on our commerce and property values.

We also know the effects of poorly crafted or implemented federal or state policies that create a climate of fear and discrimination among the civilian population—business and commerce decline and families suffer.

That makes your job all the more challenging and important—and we thank you for hearing from the people like us who live this situation daily, and for those of you who have visited the border and talked to residents and those who work and travel on both sides of the line.

In 2008, I testified before the House Subcommittee on Homeland Security, regarding the importance of comprehensive immigration reform. Much of what we told you in 2008 remains a problem today.

We must remember and appreciate the contributions of our legal immigrants and those in our area who are of Mexican-American descent, without whom agriculture and ranching could not flourish in the US. The health care industry, restaurant and hospitality industry, construction, mining and many other sectors depend on continued renewal of both entry level and skilled labor from other countries.

Mexico is our third-largest trading partner, behind Canada and China. The US and Mexican economies are interdependent. As Mexico strengthens its institutions and economy, the benefits flow into our country, and there is less pressure for illegal migration.

In our experience, the paths for both permanent and temporary legal workers in the US are long, crooked and in some cases dead-ends. Since 1986 we have not uniformly enforced immigration laws, nor have we adequately dealt with ways to efficiently permit temporary workers, and provide a timely path to citizenship for those who merit it. Agricultural and other visa programs are impractical and unworkable.

Polls show that most Americans favor comprehensive immigration reform, including a path to citizenship and that these levels of support have remained constant for more than a decade.<sup>20</sup>

National security experts under both Republican and Democratic Administrations<sup>21</sup>, assert that the most effective border security strategy is comprehensive immigration reform. We must fix the immigration system by providing legal avenues for workers to enter the United States when needed and allow families to reunify. The 1986 Immigration Reform and Control Act, which resolved the status of most undocumented immigrants at the time, did not adequately address the demand for legal immigrant labor. Because there continues to be a demand for immigrant labor, individuals from other countries who seek a better life are drawn to our nation that is full of opportunity.

By providing more avenues for these individuals to come to the U.S. through legal means, law enforcement and border officials will be able to spend fewer resources toward immigrants migrating for economic reasons and more resources toward genuine criminal and terrorist threats that could harm our communities. Smart enforcement and border security, coupled with comprehensive immigration reforms, can improve security at the border.

---

<sup>20</sup> In U.S., 65% Favor Path to Citizenship for Illegal Immigrants. (2015, August 12). Retrieved April 26, 2016, from <http://www.gallup.com/poll/184577/favor-path-citizenship-illegal-immigrants.aspx>

<sup>21</sup> Molnar, P. (2013, April 8). Panetta Lecture Series: Border security experts say immigration reform is vital. Retrieved April 26, 2016, from <http://www.santacruzsentinel.com/article/zz/20130408/NEWS/130408557>

## **VI. Conclusion**

We appreciate the professional efforts of the Border Patrol and we certainly believe in securing our nation's borders, preferably at the border or in the immediate vicinity.

We also value our nation's public lands and understand the significant contribution they make to our local and national economy as well as to quality of life. Protection of our public lands is part of protecting our national security; the two are certainly not in conflict.

We urge Congress to stop trying to achieve the infeasible—100% apprehension of all border crossers—and to cease blaming public land managers and environmental laws for border security problems.

Rather, Congress should enact comprehensive immigration reform that addresses our society's need for lawful immigrants, and, at the same time protects and enhances the public lands our growing population needs for recreational, economic and spiritual needs.