



HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

To: Subcommittee on Federal Lands Republican Members
From: Subcommittee on Federal Lands; Aniela Butler, Taylor Wiseman, and Jason Blore
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Date: Thursday, September 26, 2024
Subject: Legislative Hearing on H.R. 9678 (Rep. Ciscomani), the “*Federal Lands Amplified Security for the Homeland (FLASH) Act*”

The Subcommittee on Federal Lands will hold a legislative hearing on H.R. 9678 (Rep. Ciscomani), the “*Federal Lands Amplified Security for the Homeland (FLASH) Act.*” The hearing will take place on **Thursday, September 26, 2024, at 10:15 a.m.** in room 1334 Longworth House Office Building.

Member offices are requested to notify Will Rodriguez (Will.Rodriguez@mail.house.gov) by 4:30 p.m. on Wednesday, September 25, 2024, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- The Biden-Harris administration’s failed immigration policies have created a porous southern border, with record numbers of migrant crossings and drug seizures reported this year.
- Approximately 35 percent of our southern border is managed by federal land management agencies. Federal lands along the border are often targeted by criminals, drug smugglers, and human traffickers because they are remote, uninhabited, and less frequently patrolled.
- The Biden-Harris border crisis is degrading our nation’s parks and public lands. Illegal immigration creates trash piles, unauthorized trails, and wildfires that threaten wildlife and destroy habitat. Access and recreational opportunities are ruined as the Biden-Harris administration turns parks into migrant shelters and allows illegal marijuana cultivation on federal lands.
- Federal lands must be protected from environmental harm, open to the public for enjoyment, and accessible to the appropriate law enforcement officials to ensure public safety. That means comprehensively securing our southern federal border lands.
- The “FLASH Act” offers a comprehensive solution to secure federal border lands, address safety concerns for the public attempting to recreate and access public lands, create new access for law enforcement officers to patrol public borderlands, and reduce the detrimental environmental consequences of illegal immigration on public land throughout the country.

II. WITNESSES

Panel I (Members of Congress):

- **The Honorable Juan Ciscomani**, Member of Congress, Arizona's 6th Congressional District

Panel II (Administration Officials and Outside Experts):

- **The Honorable Deb Haaland**, Secretary, U.S. Department of the Interior, Washington, D.C. *[Declined to testify]*
- **The Honorable Tom Vilsack**, Secretary, U.S. Department of Agriculture, Washington, D.C. *[Declined to testify]*
- **The Honorable Thaddeus C. Cleveland**, Sheriff, Terrell County, Sanderson, Texas
- **Mr. Julius McChristian**, Lieutenant, San Bernardino County Sheriff's Department, San Bernardino, California
- **Ms. Stefanie Smallhouse**, President, Arizona Farm Bureau Federation, Gilbert, Arizona
- **Ms. Alba Jaramillo**, Member of Steering Committee for Southern Border Communities Coalition, Co-Executive Director of Immigration Law & Justice Network, Tucson, Arizona *[Minority Witness]*

III. BACKGROUND

[H.R. 9678](#) (Rep. Ciscomani), “Federal Lands Amplified Security for the Homeland (FLASH) Act”

Overview of the Biden-Harris Administration's Border Crisis

The FLASH Act is the logical next step in the Committee on Natural Resources' legislative work addressing the Biden-Harris administration's self-inflicted crisis on our southern border and its impact on our parks and public lands. For additional



Migrants attempting to cross the border near Eagle Pass, Texas. **Source:** Getty Images, December 2023.

background information on the Committee's previous legislative and oversight hearings related to the border, please see:

- The Subcommittee on Federal Lands’ legislative hearings on federal borderlands security bills on [March 23, 2023](#) and [October 19, 2023](#).
- The Subcommittee on Federal Lands’ oversight field hearing in Sierra Vista, Arizona, entitled “[Biden’s Border Crisis: The Consequences of Failing to Secure Federal Border Lands](#).”
- The Natural Resources Committee hearing entitled “[Destroying America’s Best Idea: Examining the Biden Administration’s Use of National Park Service Lands for Migrant Camps](#).”
- The Subcommittee on Oversight & Investigation’s hearing entitled “[Securing Our Border, Saving Our National Parks](#).”

The Biden-Harris administration’s ongoing failure to secure our nation’s southern border has created a confluence of security, environmental, and humanitarian crises as record numbers of migrants cross illegally into the country. Since 2021, more than 8.5 million illegal immigrants crossed the southern border into the United States.¹ Concerningly, drug seizures along the border are also increasing. In July, CBP reported the largest fentanyl seizure in the agency’s history – seizing over four million blue fentanyl pills.² CBP seized over 17,900 pounds of fentanyl from October 2023 to July 2024.³ This is enough fentanyl to kill approximately 4.1 billion people, or enough fatal doses to kill the entire U.S. population 12 times over.⁴

Table 1. Federal and Indian Lands on the U.S. Border with Mexico
(by agency and state, in linear miles)

Agency	AZ	TX	NM	CA	Total
NPS	37.8	157.3	0	0	195.1 (28.1%)
BLM	30.7	0	81.7	60.4	172.8 (24.9%)
FWS	63.0	94.2	0	0.6	157.8 (22.8%)
BIA	71.2	0.7	0	0	71.9 (10.4%)
FS	48.5	0	0	0	48.5 (7.0%)
DOD	37.2	0	0	0	37.2 (5.4%)
BOR	10.1	0	0	0	10.1 (1.5%)
Total	298.5 (43.0%)	252.2 (36.4%)	81.7 (11.8%)	61.0 (8.8%)	693.4 (100.0%)

Source: CRS (using data compiled from the Protected Areas Database of the United States and the U.S. Census Bureau), 2018.

Some of the most dangerous areas along the southern border are the estimated 693 miles of federal land, representing approximately 35 percent of the total 1,965 miles of the southern border.⁵ Federal land management agencies including the Bureau of Land Management (BLM), National Park Service (NPS), U.S. Fish and Wildlife Service (FWS), Bureau of Reclamation

¹ U.S. Customs and Border Protection, Southwest Land Border Encounters, accessed September 12, 2024, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

² U.S. Customs and Border Protection, “CBP Releases July 2024 Monthly Update,” August 16, 2024, <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-july-2024-monthly-update>.

³ *Id.*

⁴ U.S. Drug Enforcement Agency, “Facts About Fentanyl,” Accessed September 12, 2024, <https://www.dea.gov/resources/facts-about-fentanyl>.

⁵ Note: This estimate ranges from 632 miles to 820 miles. Federal and Indian Lands on the U.S.-Mexico Border, Congressional Research Service, February 21, 2018, <https://www.crs.gov/Reports/IF10832>.

(BOR), and the U.S. Forest Service (USFS) all manage lands along the southern border.⁶ Many of these lands have restrictive land designations, including national parks, national monuments, wilderness areas, and national wildlife refuges. Federal lands along the border are often targeted by criminals, drug smugglers, and human traffickers because they are remote, uninhabited, and less frequently patrolled.⁷ CBP agents face difficulties patrolling federal borderlands due to the patchwork of “environmental laws, regulations and memos drafted by supervisors and managers sitting behind desks” that undermine CBP’s “ability to effectively and efficiently secure our borders and put the lives of [CBP’s] agents and the public at greater risk.”⁸

To address this crisis and secure our federal border lands, Representative Ciscomani (R-AZ) introduced the “Federal Lands Amplified Security for the Homeland (FLASH) Act” on September 19, 2024. The following background provides greater detail on the three titles of the FLASH Act.

Title I – Securing Federal Border Lands

The Pressing Need for Navigable Roads



CBP patrolling the border near Yuma, Arizona. **Source:** Getty Images, 2023.

One of the primary issues CBP officers face when operating on federal lands is the lack of accessible, navigable roads. Accessible roads, paired with physical barriers such as fencing or a wall in strategic locations, are pivotal in securing our southern border. Fully accessible and well-maintained roads help CBP agents “interdict and apprehend illegal

entrants” and support constructing and maintaining other tactical infrastructure.⁹ They also enable CBP personnel to “efficiently traverse their areas of responsibility,” thus improving the agency’s overall operational effectiveness and mobility.¹⁰ Poorly maintained roads, by contrast,

⁶ Jurisdiction, House Committee on Natural Resources, <https://naturalresources.house.gov/about/jurisdiction.htm>.

⁷ Statement of Brandon Judd on behalf of the National Border Patrol Council, Subcommittee on Oversight & Investigations Republican Forum: “The Biden Border Crisis: Environmental and Humanitarian Consequences”, May 27, 2021, https://naturalresources.house.gov/uploadedfiles/brandon_judd_testimony_biden_border_crisis_forum.pdf.

⁸ *Id.*

⁹ “Southwest Border Security: Additional Actions Needed to Better Assess Fencing’s Contributions to Operations and Provide Guidance for Identifying Capability Gaps, GAO-17-331,” U.S. Government Accountability Office, February 2017, <https://www.gao.gov/assets/gao-17-331.pdf>.

¹⁰ *Id.*

have been reported to have “negatively affected agents’ ability to respond and resolve illicit activity.”¹¹

Despite this importance, much of the road network in the southern border region falls far below what is necessary for effective border security. In fact, as of 2019, only 29 percent of the approximately 4,900 miles of roads CBP uses for operational patrols were owned by CBP or subject to CBP’s rights to conduct maintenance and repair.¹² Worse still, only 146 miles of those roads were in all-weather condition.¹³ CBP’s lack of access to navigable roads is especially pronounced on federal lands, which often comprise rugged and sparsely populated terrain.¹⁴ In Arizona’s Coronado National Forest, “the inability to build proper access roads along and near the [border] line, including secondary roads, diminished agent mobility while patrolling and ultimately prevented agents from being as effective as they could otherwise be.”¹⁵

There is an immediate need to build accessible patrol roads along our southern border. Yet, unlike President Trump, who requested \$107 million for border road maintenance in fiscal year (FY) 2019 alone, the Biden-Harris administration has largely neglected this situation.¹⁶ In October 2023, after years of inaction and in the face of escalating political pressures, the Biden-Harris administration finally announced plans to construct a segment of border wall and roads in Starr County, Texas.¹⁷ The Federal Register notice accompanying this announcement stated, “[t]here is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States to prevent unlawful entries into the United States....”¹⁸ But despite this accurate and promising language, the new border wall amounted to only “a few miles of new barrier in Starr County.”¹⁹

Title I of the FLASH Act seeks to offset the road shortages that have prevailed under the Biden-Harris administration. Effective border security requires that roads and physical barriers be constructed along the *full* length of federal border lands so that *all* illegal access points can be monitored. Otherwise, illegal migrants will shift their entry patterns to less-defended portions of the southern border, as has occurred in the past.²⁰ Adopting a comprehensive approach, Title I

¹¹ *Id.*

¹² *Id.*

¹³ Katie Sullivan & Cristobal Ramón, “Current State of U.S.-Mexico Border Infrastructure: February 2019” Bipartisan Policy Center, February 14, 2019, <https://bipartisanpolicy.org/blog/current-state-of-u-s-mexico-border-infrastructure-february-2019/>.

¹⁴ “Southwest Border: Border Patrol Operations on Federal Lands, GAO-11-573T,” U.S. Government and Accountability Office, April 15, 2011, <https://www.gao.gov/assets/gao-11-573t.pdf>.

¹⁵ Statement of Brandon Judd on behalf of the National Border Patrol Council, Subcommittee on Oversight & Investigations Republican Forum: “The Biden Border Crisis: Environmental and Humanitarian Consequences”, May 27, 2021, https://naturalresources.house.gov/uploadedfiles/brandon_judd_testimony_biden_border_crisis_forum.pdf.

¹⁶ Katie Sullivan & Cristobal Ramón, “Current State of U.S.-Mexico Border Infrastructure: February 2019” Bipartisan Policy Center, February 14, 2019, <https://bipartisanpolicy.org/blog/current-state-of-u-s-mexico-border-infrastructure-february-2019/>.

¹⁷ Department of Homeland Security, Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, As Amended, Federal Register, October 5, 2023, <https://www.federalregister.gov/documents/2023/10/05/2023-22176/determination-pursuant-to-section-102-of-the-illegal-immigration-reform-and-immigrant-responsibility>. Sergio Mendoza Reyes, et al., “Biden administration presses forward with border wall plans in Texas, angering allies,” The Texas Tribune, October 5, 2023, <https://www.texastribune.org/2023/10/05/biden-border-wall-texas-starr-county/>.

¹⁸ Department of Homeland Security, Determination Pursuant to Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, As Amended, Federal Register, October 5, 2023, <https://www.federalregister.gov/documents/2023/10/05/2023-22176/determination-pursuant-to-section-102-of-the-illegal-immigration-reform-and-immigrant-responsibility>.

¹⁹ Sergio Mendoza Reyes, et al., “Biden administration presses forward with border wall plans in Texas, angering allies,” The Texas Tribune, October 5, 2023, <https://www.texastribune.org/2023/10/05/biden-border-wall-texas-starr-county/>.

²⁰ Camilo Montoya-Galvez, “Migrant crossings fall sharply along Texas border, shifting to Arizona and California,” CBS News, February 8, 2024, <https://www.cbsnews.com/news/immigration-texas-border-arizona-california-migrants/>. The article notes that “daily illegal crossings have slowed to a trickle” in areas where Governor Greg Abbott has deployed the Texas National Guard.

would direct the Secretaries of Agriculture and the Interior to install navigable roads on all federal lands along the southern border. Title I requires at least 584 miles of road, the most conservative estimate of federal land along the border.²¹ This includes roughly 61 miles in California, 190 miles in Arizona, 81 miles in New Mexico, and 251 miles in Texas.²² Additionally, these roads must be completed within five years. The roads will be accessible to the Department of Defense, CBP, local law enforcement, emergency response personnel, and others the Secretary concerned deems necessary. Title I also requires the Secretaries to work with the Secretary of Homeland Security to deploy fencing, surveillance, and related technology along these roads. Taken together, these provisions are crucial to secure our border, stop the smuggling of narcotics and weapons into our country, and halt environmental damage associated with illegal border crossers.

This section of Title I reflects an updated version of draft legislation sponsored by Chairman Bruce Westerman (R-AR), entitled “*Ensuring Border Access and Protection on Federal Land Act*.” Hearing information on the legislation, including testimony, can be found [here](#), and the hearing memo can be found [here](#).

Increasing CBP’s Operational Capabilities on Public Lands

CBP’s enforcement efforts along the southern border are also hampered by restrictive land use designations and limitations that federal land managers impose on CBP’s accessibility. Among land use designations, wilderness areas pose especially serious challenges. For example, since mechanized and motorized vehicles are prohibited within wilderness areas, CBP agents must rely on horses to engage in or continue their pursuits.²³ This switch from vehicle to horseback squanders valuable time and jeopardizes officer safety.²⁴ With approximately 1.1 million acres of land along the southern border designated as wilderness, such challenges cannot be avoided without altering the status quo.²⁵ Even the Obama administration acknowledged that wilderness areas and their associated restrictions “can be detrimental to the most effective accomplishment of [CBP’s] missions” and can even serve as “a hindrance to the maintenance of officer safety.”²⁶ This lack of accessibility also hampers CBP rescue operations. CBP conducted 412 rescues in July alone, bringing the FY 2024 total to 4,480 rescues.²⁷ Without the ability to use mechanized equipment, these rescue operations become more deadly, costly, and time-consuming.

Title I incorporates provisions from H.R. 4827, a bill sponsored by Speaker Johnson (R-LA), to address the unique challenges posed by wilderness areas.²⁸ Title I amends the Wilderness Act of

²¹ Federal and Indian Lands on the U.S.-Mexico Border, Congressional Research Service, February 21, 2018, <https://www.crs.gov/Reports/IF10832>.

²² *Id.*

²³ Statement of Brandon Judd on behalf of the National Border Patrol Council, Subcommittee on Oversight & Investigations Republican Forum: “The Biden Border Crisis: Environmental and Humanitarian Consequences”, May 27, 2021, https://naturalresources.house.gov/uploadedfiles/brandon_judd_testimony_biden_border_crisis_forum.pdf.

²⁴ *Id.*

²⁵ Data provided to the House Committee on Natural Resources by Congressional Research Service, September 18, 2023.

²⁶ Statement of Brandon Judd on behalf of the National Border Patrol Council, Subcommittee on Oversight & Investigations Republican Forum: “The Biden Border Crisis: Environmental and Humanitarian Consequences”, May 27, 2021, https://naturalresources.house.gov/uploadedfiles/brandon_judd_testimony_biden_border_crisis_forum.pdf (quoting an October 2009 letter from then Secretary of Homeland Security, Janet Napolitano).

²⁷ U.S. Customs and Border Protection, “CBP Releases July 2024 Monthly Update,” August 16, 2024, <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-july-2024-monthly-update>.

²⁸ “Securing Our Borders and Wilderness Act,” <https://www.congress.gov/bill/118th-congress/house-bill/4872>.

1964 to ensure that CBP can conduct specified activities within wilderness areas to secure the southern border.²⁹ Permitted activities include building access structures, installations, and roads; executing search and rescue operations; using motor vehicles, motorboats, or motorized equipment; conducting foot and horseback patrols; using aircraft (consistent with other applicable laws); deploying tactical infrastructure and technology; and constructing and maintaining physical roads and barriers. When performing these activities, CBP is required to protect, to the extent possible, the wilderness character of the area.



A CBP agent patrols California's Otay Mesa Mountain Range by foot.
Source: Associated Press, 2005.

In addition to statutory land use designations, federal land managers impose various restrictions on CBP activity. For example, when CBP requested permission to move surveillance equipment, federal land managers took “more than 4 months to conduct the required historic property assessment and grant permission, but by then illegal traffic had shifted to other areas.”³⁰ Recognizing such obstacles, President Trump signed Executive Order 13767, which directed the Secretaries of Agriculture and the Interior to

“take all appropriate action” to provide access to CBP officers on federal lands.³¹ However, on February 2, 2021, the Biden-Harris administration revoked this order, undoing past progress and resurrecting needless enforcement barriers.³² To counter this problem, Title I prohibits DOI and USDA from restricting CBP actions within 100 miles of the southern border involving search and rescue operations, apprehensions, and preventing unlawful entry into the United States.

Previously, DHS and federal land management agencies had signaled their mutual intent to work together to ensure border security. Specifically, DHS, DOI, and USDA entered into a March 2006 agreement entitled, “Memorandum of Understanding Among U.S. Department of Homeland Security and U.S. Department of the Interior and U.S. Department of Agriculture Regarding Cooperative National Security and Counterterrorism Efforts on Federal Lands along the United States’ Borders,” (2006 MOU).³³ The 2006 MOU provides specific guidance on cooperation related to border security, committing the signatories “to preventing illegal entry into the United States, protecting Federal lands and natural and cultural resources, and—where

²⁹ 16 U.S.C. 1133.

³⁰ “Southwest Border: Border Patrol Operations on Federal Lands, GAO-11-573T” U.S. Government Accountability Office, April 15, 2011, <https://www.gao.gov/assets/gao-11-573t.pdf>.

³¹ Executive Order 13767 (<https://www.federalregister.gov/documents/2017/01/30/2017-02095/border-security-and-immigration-enforcement-improvements>).

³² Executive Order 14010 (<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/02/executive-order-creating-a-comprehensive-regional-framework-to-address-the-causes-of-migration-to-manage-migration-throughout-north-and-central-america-and-to-provide-safe-and-orderly-processing/>).

³³ “Southwest Border: Border Patrol Operations on Federal Lands, GAO-11-573T” U.S. Government Accountability Office, April 15, 2011, <https://www.gao.gov/assets/gao-11-573t.pdf>.

possible—preventing adverse impacts associated with illegal entry.”³⁴ As noted by the U.S. Government Accountability Office (GAO), however, “such cooperation has not always occurred,” as CBP officials report excessive delays in trying to coordinate with federal land managers.³⁵ Accordingly, Title I directs DOI, USDA, and the Department of Homeland Security to fulfill the commitments made in the 2006 MOU or any succeeding memorandum of understanding. Better enforcement outcomes are more likely to occur with greater cooperation among federal agencies.

Empowering Border States to Protect Their Communities

The Biden-Harris administration has also contributed to the border crisis by repeatedly obstructing state-led enforcement measures. Having borne the brunt of mass-scale illegal migration, several states attempted to erect their own barriers across the southern border. In 2022, for example, Arizona, under then Governor Doug Ducey, “set up hundreds of double-stacked shipping containers” along the state’s border with Mexico to stem the surge of illegal immigrants arriving amidst the Biden-Harris administration’s border crisis.³⁶ Similarly, in 2022 and 2023, Texas Governor Greg Abbott placed shipping containers along Texas’s portion of the southern border and “installed wrecking-ball-sized buoys and razor wire along the Rio Grande” to achieve the same purpose.³⁷ However, after legal challenges from the Biden-Harris administration, the Supreme Court eventually ruled to allow CBP to remove some of these barriers.³⁸

Through Congressional action, states may be authorized to act without upsetting the federal supremacy issues the Supreme Court was determined to uphold. Title I, therefore, empowers states to secure the southern border and circumvent the Biden-Harris administration’s continued intransigence. Reflecting solutions put forward in H.R. 7479, sponsored by Representative Rouzer (R-NC), Title I grants border states the explicit authority to place temporary barriers on federal land to prevent illegal immigration and protect their communities.³⁹ Title I accomplishes this by prohibiting DOI and USDA from requiring southern border states to obtain a special use authorization for placing movable, temporary structures on federal land if the state notifies the federal land management agency not later than 45 days before placement. These structures may be put in place for one year or less, but the states can apply for 90-day extensions from USDA or DOI, subject to CBP overview.

³⁴ Memorandum of Understanding Among U. S. Department of Homeland Security and U. S. Department of the Interior and U. S. Department of Agriculture Regarding Cooperative National Security and Counterterrorism Efforts on Federal Lands along the United States’ Borders, March 2006, available at <https://cis.org/sites/cis.org/files/articles/2010/mou.pdf>.

³⁵ “Southwest Border: Border Patrol Operations on Federal Lands, GAO-11-573T” U.S. Government Accountability Office, April 15, 2011, <https://www.gao.gov/assets/gao-11-573t.pdf>.

³⁶ Adam Shaw, “GOP lawmakers look to allow states to erect temporary border walls to halt illegal immigration,” Fox News, March 1, 2024, <https://www.foxnews.com/politics/gop-lawmakers-look-to-allow-states-to-erect-temporary-border-walls-to-halt-illegal-immigration?msocid=145926dafc126bfe33283560fd006aa3>.

³⁷ *Id.*

³⁸ William Melhado, “U.S. Supreme Court says Texas can’t block federal agents from the border,” The Texas Tribune, January 22, 2024, <https://www.texastribune.org/2024/01/22/texas-border-supreme-court-immigration/>.

³⁹ “Rouzer Legislation Empowers States to Secure Southern Border Amid Barrier,” The Office of Congressman David Rouzer, March 1, 2024, <https://rouzer.house.gov/news/documentsingle.aspx?DocumentID=1159>.

Title II – Ending Environmental Destruction on Public Lands

Subtitle A – Trash Reduction And Suppressing Harm from Environmental Degradation at the Border (TRASHED Border) Act

There are devastating environmental consequences of illegal immigration. Illegal immigrants leave behind trash, including human waste, medical products, abandoned vehicles, and plastic. Illegal trash dumping along the border threatens wildlife, destroys habitat, and attracts disease-carrying insects such as mosquitoes and flies. Human waste is a growing problem that contaminates the drinking water of nearby residents. This trash strains federal, state, Tribal, local, and private land managers and owners. In FY 2021, BLM district offices cleaned up 235 sites, collecting over 193 tons of garbage.⁴⁰ The Arizona Department of Environmental Quality estimates that more than 2,000 tons of trash are discarded annually along Arizona’s border.⁴¹



*Illegal immigrant campsites at the southern border on the Coronado National Forest. **Source:** Chairman Tom Tiffany, February 2024.*

Subtitle A of Title II reflects H.R. 6208, sponsored by Subcommittee Chairman Tiffany (R-WI).⁴² The “Trash Reduction And Suppressing Harm from Environmental Degradation at the Border (TRASHED Border) Act” addresses environmental damage on federal border lands due to illegal immigration. This includes areas where aliens are being housed or camping on federal land and areas where there is damage to sensitive natural and archaeological resources and destruction of wildlife habitat. This subtitle would require federal land management agencies to develop policies and protocols to prevent and mitigate environmental damage from

illegal immigrants. In addition, to bring greater transparency, federal land management agencies must report the amount of waste collected on southern border lands, sites housing migrants, and sites used to cultivate illegal marijuana. Having greater transparency will show the true extent of the environmental impacts illegal immigration has on federal lands. To deter future harmful activities, fines and penalties associated with trash, fires, and refuse on federal lands are increased for aliens without legal status in the bill.

Hearing information on H.R. 6208, including testimony, can be found [here](#), and the hearing memo can be found [here](#).

⁴⁰ Data provided by Bureau of Land Management to Committee Staff, February 6, 2023.

⁴¹ Arizona Department of Environmental Quality, “Arizona Border Trash,” Accessed September 9, 2024, <https://legacy.azdeq.gov/obep/waste.html>.

⁴² “TRASHED Border Act,” <https://www.congress.gov/bill/118th-congress/house-bill/6208>.

Subtitle B – Targeting and Offsetting Existing Illegal Contaminants (TOXIC) Act

Trash accumulation from illegal immigration is not limited solely to federal border lands. The cultivation of illegal cannabis on federal lands is often done by illegal immigrants or those connected to a drug cartel. USFS law enforcement officials estimated that the arrests they make for illegal cannabis cultivation are “almost all drug cartel-related.”⁴³ USFS also reported that 5,801 illegal cannabis cultivation sites were detected on National Forest System lands over the 2011-2022 period.⁴⁴ While data is limited, USFS estimated that they removed 381,510 pounds of trash, 479 miles of plastic irrigation lines, and 228 containers of banned and illegal pesticides from illegal cultivation sites over a roughly 20-year period.⁴⁵ USFS estimated illegal marijuana cultivation on National Forest System lands earns cartels an estimated \$56 to \$91 million annually.⁴⁶ The cost of cleaning up these sites has been roughly \$40,000 per site.⁴⁷ At one illegal site, an environmental assessment “concluded that more than 14.25 million gallons of water were illegally diverted.”⁴⁸

Subtitle B of Title II reflects an updated version of H.R. 1473, the “Targeting and Offsetting Existing Illegal Contaminants (TOXIC) Act.”⁴⁹ The TOXIC Act would seek to address the environmental damage caused by toxic chemicals associated with illegal marijuana cultivation and subject those illegally cultivating and harvesting marijuana on federal lands to stricter



Illegal cannabis site on National Forest System land.

Source: NBC News, 2021.

criminal penalties. Specifically, this bill creates a Trespass Cannabis Cultivation Site Response Initiative for the land management agencies. The TOXIC Act also raises the criminal penalties for using banned pesticides in illegal cannabis cultivation to a maximum of 20 years in prison and a \$250,000 fine, which would create parity with the existing penalties for smuggling banned chemicals into the country. During the legislative hearing on H.R. 1473, DOI advised that similar

⁴³ NPR, “Illegal Pot Operations In Public Forests Are Poisoning Wildlife And Water,” November 12, 2019, <https://www.npr.org/transcripts/773122043>.

⁴⁴ Response to questions for the record submitted by Chairman Westerman. On file with the Committee.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ U.S. Attorney’s Office, Eastern District of California, “Mexican National Sentenced to 10 Years in Prison for Growing Over 6,500 Marijuana Plants in the Shasta-Trinity National Forest,” March 10, 2023, <https://www.justice.gov/usao-edca/pr/mexican-national-sentenced-10-years-prison-growing-over-6500-marijuana-plants-shasta>.

⁴⁹ “Targeting and Offsetting Existing Illegal Contaminants Act,” <https://www.congress.gov/bill/118th-congress/house-bill/1473>.

authority for federal land under the management of DOI would be beneficial.⁵⁰ The updated language incorporated in the FLASH Act includes DOI-managed land and reflects technical assistance from the USFS, DOI, and the Environmental Protection Agency.⁵¹

Hearing information on H.R. 1473, including testimony, can be found [here](#), and the hearing memo can be found [here](#).

Subtitle C – Ending Major Border Land Environmental Ruin From Wildfires

Additionally, wildfires sparked by cross-border violators' (CBVs) campfires contribute to the destruction of natural resources and wildlife habitat throughout federal border lands.⁵² In 2011, GAO produced a report to analyze the wildfires along the southern border in Arizona.⁵³ At least 2,467 wildfires occurred in the Arizona border region during a four-year span, resulting in over \$35 million in fire suppression costs.⁵⁴ Fighting fire along the border is more difficult due to safety concerns. Nighttime operations and aerial firefighting methods are limited due to the presence of CBVs.⁵⁵ USFS can directly link illegal cultivation of marijuana on federal lands as the primary culprit behind wildfires that ultimately burned 265,00 acres.⁵⁶ Illegal cannabis sites in National Forests exacerbate the dual threats of catastrophic wildfire and severe drought. Recently, in 2020, an illegal cannabis grower started the 125,000-acre Dolan Fire in the Los Padres National Forest killing 11 endangered condors.⁵⁷

Subtitle C of Title II codifies the Southern Border Fuels Management Initiative, which requires the Secretary of the Interior to prioritize fuels management on federal land along the southern border. This Initiative was started under the Trump administration to “increase safety and visibility for our border patrol agents, improve national security, and increase landscape resilience through vegetation management along the United States-Mexico border.”⁵⁸ This important Initiative allowed DOI to install 30 miles of fuel breaks in FY 2019 and treat nearly 80,000 acres of land to reduce hazardous fuels.⁵⁹ Continuing the Biden-Harris administration's litany of failures along the southern border, the administration has let this program go dormant. Codifying this Initiative will improve operational efficiencies along the border and prevent the risk of future catastrophic wildfires. Further, this subtitle would direct GAO to update, within two years of enactment, its November 2011 report entitled “Federal Agencies Could Better Utilize Law Enforcement Resources in Support of Wildland Fire Management Activities.”⁶⁰ Representative Ken Calvert (R-CA) introduced this subtitle as standalone legislation on September 19, 2024.⁶¹

⁵⁰ Testimony of Chris French, Deputy Chief of the Forest Service before the Subcommittee on Federal Lands, March 23, 2023, https://republicans-naturalresources.house.gov/UploadedFiles/Testimony_FrenchFI3.23.23.pdf.

⁵¹ Technical assistance provided by agencies on file with the Committee.

⁵² U.S. Government Accountability Office, “Arizona Border Region: Federal Agencies Could Better Utilize Law Enforcement Resources in Support of Wildland Fire Management Activities”, November 8, 2011, <https://www.gao.gov/products/gao-12-73>.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Response to questions for the record submitted by Chairman Westerman. On file with the Committee.

⁵⁷ Response to questions for the record submitted by Chairman Westerman. On file with the Committee.

⁵⁸ DOI, “Southern Border Fuels Management,” last updated in 2020, <https://edit.doi.gov/wildlandfire/southern-border-fuels-management>.

⁵⁹ *Id.*

⁶⁰ GAO, “Arizona Border Region: Federal Agencies Could Better Utilize Law Enforcement Resources in Support of Wildland Fire Management Activities,” GAO-12-73, Nov 22, 2011, <https://www.gao.gov/products/gao-12-73>.

⁶¹ To mitigate environmental degradation and wildland fires caused by illegal immigration along the southern border of the United States, and for other purposes. <https://www.congress.gov/bill/118th-congress/house-bill/9682>.

Title III – Protecting Our Communities from Failure to Secure the Border

The Biden-Harris administration has turned every community into a border community. The Biden administration’s decision to lease National Park System land to New York City (NYC) to relieve pressure on their migrant housing crisis is a dangerous and failed experiment. After signing a lease with NYC in the summer of 2023, the Biden-Harris administration established a migrant encampment at Floyd Bennett Field (FBF), part of the Gateway National Recreation Area in NYC. House Committee on Natural Resources Republicans repeatedly conducted oversight on this abuse of power, including the misuse and denial of access to America’s federal lands. Virtually every major concern the committee raised has come to fruition. The migrant crisis in NYC and the existence of the encampment at FBF led to increased crime targeting local NYC community residents.⁶² Widespread reports of criminality in and around the FBF migrant camp include allegations of domestic violence, assault, shoplifting, prostitution, and panhandling scams.⁶³ However, Biden-Harris administration officials responsible for FBF mutating into a migrant camp have evaded congressional oversight and accountability.

The FBF Lease expired on September 14, 2024, and the NPS extended the lease for another year.⁶⁴ In addition to restricting public access to national park lands, the FBF Lease sets a terrible precedent by transforming what some have referred to as “America’s best idea”—our national parks—into inaccessible migrant encampments. The Committee has launched a thorough investigation into the FBF lease, which involves requests for document productions, briefings, and interviews from several federal agencies, including NPS, Department of Homeland Security, Council on Environmental Quality and White House officials. On August 9, 2024, Chairman Westerman issued a subpoena to the U.S. Department of Homeland Security (DHS) for documents related to the lease agreement.⁶⁵

Title III reflects H.R. 5283, sponsored by Representative Malliotakis (R-NY), which passed the House of Representatives with a bipartisan vote of 224-203 on November 30, 2024.⁶⁶ Title III would prohibit federal funding from being used to house illegal immigrants on any federal lands and cancel the FBF lease. Hearing information on H.R. 5283, including testimony, can be found [here](#), and the hearing memo can be found [here](#).

IV. MAJOR PROVISIONS & SECTION-BY-SECTION

⁶² NEW YORK POST, Sarah Goodman et al., “City Hall vows to probe ‘lawlessness’ following Post report on spike in crime around Floyd Bennett Field migrant shelter,” January 14, 2024, <https://nypost.com/2024/01/14/metro/city-will-probe-any-lawlessness-by-migrants-at-bennett-floyd-field/>.

⁶³ NEW YORK POST, Carl Campanile, “Migrants’ pricey cars towed outside controversial NYC shelter in same area where they begged door to door,” January 6, 2024, <https://nypost.com/2024/01/06/metro/at-least-five-unregistered-vehicles-used-by-migrants-parked-outside-floyd-bennett-field-shelter-towed/>; NEW YORK POST, Georgia Worrell et al., “Fear and loathing at Brooklyn’s Floyd Bennett Field: Neighbors fuming over migrants’ ‘lawlessness’,” January 13, 2024, <https://nypost.com/2024/01/13/metro/brooklyn-residents-fuming-over-migrants-lawlessness/>; DAILY MAIL, Isabelle Stanley, “Floyd Bennett Field migrants leaves NYC’ers fuming over reported spike in robberies, scams and an arrests near shelter,” January 14, 2024, <https://www.dailymail.co.uk/news/article-12962373/Floyd-Bennett-Field-New-York-migrant-crime-shelter-arrests.html>; NEW YORK POST, Craig McCarthy and Alex Oliveria, “Adams ‘looking into’ imposing curfew at migrant shelters as panhandling, crime surges,” January 11, 2024, <https://nypost.com/2024/01/11/metro/adams-looking-into-imposing-curfew-at-migrant-shelters-as-panhandling-crime-surges/>.

⁶⁴ House Natural Resources Committee, “Westerman Slams NPS for Extending Migrant Encampment Lease on National Park,” September 13, 2024, <https://naturalresources.house.gov/news/documentsingle.aspx?DocumentID=416525>.

⁶⁵ House Natural Resources Committee, “Westerman Issues Subpoena Over Obstructed Documents Regarding Migrant Encampment on National Park Land,” August 9, 2024, <https://naturalresources.house.gov/news/documentsingle.aspx?DocumentID=416394>.

⁶⁶ “Protecting our Communities from Failure to Secure the Border Act of 2023,” <https://www.congress.gov/bill/118th-congress/house-bill/5283>.

V. COST

A formal cost estimate from the Congressional Budget Office (CBO) is not yet available. CBO has previously scored Title III of the legislation and determined the “net effect on direct spending would be negligible.”⁶⁷

VI. ADMINISTRATION POSITION

The administration testified on several related bills. Versions of these bills were included in the FLASH Act. The administration’s testimony can be viewed via the following links:

- [Sec. 101: Enhancing Border Security Through the Construction of Navigable Roads Along Federal Border Lands \(Chairman Westerman Border Road Discussion Draft\)](#)
- [Secs. 201-204: H.R. 6208/Rep. Tiffany](#)
- [Secs. 211-214: H.R. 1473/Rep. Peters](#)
- [Secs. 301-303: H.R. 5283/Rep. Malliotakis](#)

The administration’s position on the remaining portions of the FLASH Act is currently unknown.

VII. EFFECT ON CURRENT LAW (RAMSEYER)

FLASH ACT

⁶⁷ Congressional Budget Office, H.R. 5283, Protecting our Communities from Failure to Secure the Border Act of 2023, November 17, 2023, <https://www.cbo.gov/publication/59793>.