

October 10, 2024

The Honorable Tom Tiffany  
Chairman  
Subcommittee on Federal Lands  
Committee on Natural Resources  
U.S. House of Representatives  
1324 Longworth House Office Building  
Washington, D.C. 20515

The Honorable Joe Neguse  
Ranking Member  
Subcommittee on Federal Lands  
Committee on Natural Resources  
U.S. House of Representatives  
1332 Longworth House Office Building  
Washington, D.C. 20515

Dear Chairman Tiffany and Ranking Member Neguse:

On behalf of the undersigned organizations dedicated to environmental protection, civil and human rights, tribal government, and community support, we write to express our significant concerns about H.R. 9678, the “Federal Lands Amplified Security for the Homeland (FLASH) Act.” We highlight our concerns below:

Section 101 requires that there be at least 584 miles of road along the portions of the southern border that “abut covered Federal lands” within ten miles of the border. This section also directs the Secretaries of the Departments of Agriculture and Interior to enter into cooperative agreements with the Department of Homeland Security for additional fencing, surveillance and related technology along the roads mandated in this section. We strongly oppose further construction of border wall, which has proven to be ineffective, wasteful and harmful.<sup>1</sup> We also have very serious concerns about further road construction, which also causes severe environmental consequences and increases the occurrence of human-caused fires.<sup>2</sup> Local residents, ranchers and land managers have also noted that at times, new roads actually facilitate cross-border traffic. We do note, however, that the bill would provide for the restoration of legal processes for construction of further border barriers and roads. Among other things, restoration of legal processes is more likely to promote identification of possible actions that are less harmful and more effective at the border through structured, enforceable processes that allow communities, tribes and other agencies with expertise in land management to have a voice in analyzing alternative approaches to meeting particular goals.

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<sup>1</sup> See Attachment A, *Nature Divided, Scientists United: US-Mexico Border Wall Threatens Biodiversity and Binational Conservation*, Bioscience, October 2018.

<sup>2</sup> Shaw, Jeremy R. (2023) *Road impacts to Sheetflow-Dependent Ecosystems in the Sonoran Desert*, Journal of Arid Environment 208: 104833, <https://www.sciencedirect.com/science/article/abs/pii/S0140196322001781?via%3Dihub>; WildEarth Guardians, (2020) *The Environmental Consequences of Forest Roads and Achieving a Sustainable Road System*, an update to the Wilderness Society report, *Transportation Infrastructure and Access on National Forests and Grasslands: A Literature Review*, [https://pdf.wildearthguardians.org/support\\_docs/Roads-Lit-Review-2020.pdf](https://pdf.wildearthguardians.org/support_docs/Roads-Lit-Review-2020.pdf).

Section 102 amends the Wilderness Act by providing that U.S. Customs and Border Protection personnel access wilderness on foot, horseback, or through the utilization of motorized vehicles and aircraft for both law enforcement purposes and search and rescue operations. To be clear, the Border Patrol already has such access to wilderness in the borderlands and consequently, have created many roads within wilderness areas.<sup>3</sup> The provision also authorizes the construction of physical barriers in wilderness; presumably, those are intended to be at or very close to the border, where the Roosevelt Easement already reserves a 60' strip for law enforcement activities and where there are already hundreds of miles of border wall. In short, this section is unnecessary.

Section 103 authorizes a border state to place temporary, movable structures on federal public lands at the southern border for a period of one year, with unlimited extensions of 90 days possible. States would be excused from obtaining a special use permit or other authorization for the barriers. Land managers for national park lands, national wildlife refuges, national monuments, national recreation areas, national forests and federal land used for major water conveyance and holding structures would be notified of the intended placement would apparently retain no discretion over whether, where and how such structures would be placed on the lands they are supposed to manage for the good of the American people.

We have seen the results of this type of action. In Arizona, the state legislature funded, and Governor Ducey directed the establishment of over 2,000 shipping containers along the border in 2022. There is no analysis we're aware of regarding the effectiveness of the shipping containers in terms of achieving the ostensible goal of preventing crossings into Arizona, but we are well aware of the environmental costs. For example, 922 shipping containers were double stacked along 3.5 miles of the U.S.-Mexico border on Coronado National Forest in the southern Huachuca Mountains. These construction activities were implemented without consultation with federal land and wildlife managers and inflicted serious environmental harm on the landscape that will take many years of restoration to remediate. Earthwork to make space for the barrier filled ephemeral tributaries of the San Pedro River, violating the Clean Water Act in at least 24 locations. Hundreds of oak trees were cut down and grassland habitat was destroyed throughout the construction zone. This habitat loss destroyed native vegetation, put an endangered population of Beardless Chinchweed at risk, and created favorable conditions for the spread of invasive plant species.

Further, the land where the temporary barrier was constructed was also designated critical habitat for endangered ocelot and is a critical corridor for their movement. The physical presence of the barrier and construction crews repelled wildlife and caused a 24% decrease in wildlife movement through the area.<sup>4</sup> After the trailers were removed, wildlife movement

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<sup>3</sup> See, 16 U.S.C. § 1133(c); P.L. 101-628, P.L. 103-433, P.L. 106-145; see also, *Wilderness Watch v. Bureau of Land Management*, 799 F. Supp. 1172 (D. Nev. 2011); *Vehicle Trails Associated with Illegal Border Activities on Cabeza Prieta National Wildlife Refuge*, Dept. of the Interior, July, 2011.

<sup>4</sup> Sky Island Alliance, Border Wildlife Study, Data from September, 2022 to April 2023.

returned to pre-construction levels and a jaguar entered the U.S. and was documented on Coronado National Forest.

Section 104 prohibits the Secretaries of the Interior and Agriculture from impeding, prohibiting or restricting activities on public lands within 100 miles of the southern border for search and rescue operations and law enforcement activities. We are unaware of any circumstance in which land managers have prohibited or restricted these activities. Indeed, we know that land managers have not always been informed prior to construction of border infrastructure taking place on the management unit under their jurisdiction. The waiver of all applicable laws related to historic and archaeological sites and artifacts, wildlife, water and other environmental attributes, as well as land management unit authorizations and other administrative laws has particularly exacerbated the lack of communication with on-the-ground land managers.

Section 105 directs the Secretaries of Agriculture and Interior to enter into a cooperative agreement with the Secretary of Homeland Security to fulfill the commitments in the 2006 “Memorandum of Understanding Among the 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.” We note that a number of such agreements have already been signed. For example, there was a Memorandum of Agreement for Environmental Coordination and Review between the Department of the Interior and U.S. Customs and Border Protection for the Secure Border Initiative, signed in 2008; a Memorandum of Understanding between U.S. Customs and Border Protection and the National Park Service regarding roads in Organ Pipe Cactus National Monument, Arizona, in 2012; a Memorandum of Understanding between U.S. Customs and Border Protection and the U.S. Fish and Wildlife Service regarding roads within the Cabeza Prieta National Wildlife Refuge, Arizona, in 2013; a Memorandum of Agreement between U.S. Customs and Border Protection and the Department of Agriculture/Forest Service for Environmental Coordination and Review of Border Security Activities in January 2008, updated in December 2013; a Memorandum of Understanding between U.S. Customs and Border Protection and the U.S. Fish and Wildlife Service regarding roads within the Buenos Aires National Wildlife Refuge, Arizona, in 2014; and a General Agreement between the U.S. Customs and Border Protection –Del Rio Sector and the National Park Service-Amistad National Recreation Area, Texas (2015). This is not a comprehensive list, but identifies some of the agreements following the 2006 MOU.

In short, we think the provisions noted above raise very serious concerns regarding environmental and community impacts and/or are, in several cases, unnecessary and duplicative. Thank you for your consideration of these issues.

Sincerely,

American Bird Conservancy  
Animal Welfare Institute  
Animal Wonders KC  
Border Workers United  
C 6 Ranch (Santa Cruz County, Arizona)  
Center for Biological Diversity  
Christian Council of Delmarva  
Coalición de Derechos Humanos  
Coast Range Association  
Colorado Wildlands Project  
Cuenca los Ojos  
Defenders of Wildlife  
Earthjustice  
Endangered Habitats League  
Endangered Species Coalition  
Environmental Protection Information Center- EPIC  
Friends of the Wildlife Corridor  
Grand Canyon Wolf Recovery Project  
Great Old Broads for Wilderness  
GreenLatinos  
Howling For Wolves  
Idaho Conservation League  
Kettle Range Conservation Group  
League of Conservation Voters  
Madrean Archipelago Wildlife Center  
National Parks Conservation Association  
Natural Resources Defense Council  
New Mexico Dream Team  
Oregon Wild  
Presente.org  
Resource Renewal Institute  
Rio Grande Valley Broadband of the Great Old Broads for Wilderness  
San Pedro 100 LLC  
Sky Island Alliance  
Southern Border Communities Coalition  
Southern Utah Wilderness Alliance  
Species Unite  
The Friends of International Friendship Park  
The Green Valley/Sahuarita Samaritans  
The Rewilding Institute  
The Wilderness Society  
Tohono O'odham Nation, San Xavier District  
Voices of Wildlife in NH  
Western Watersheds Project  
Wilderness Watch