



HOUSE COMMITTEE ON  
**NATURAL RESOURCES**  
CHAIRMAN BRUCE WESTERMAN

**To:** Subcommittee on Federal Lands Republican Members  
**From:** Subcommittee on Federal Lands; Aniela Butler, Brandon Miller, Lauren Limke, and Colen Morrow – [Aniela@mail.house.gov](mailto:Aniela@mail.house.gov), [Brandon.Miller@mail.house.gov](mailto:Brandon.Miller@mail.house.gov), [Lauren.Limke@mail.house.gov](mailto:Lauren.Limke@mail.house.gov), and [Colen.Morrow@mail.house.gov](mailto:Colen.Morrow@mail.house.gov); x6-7736  
**Date:** Thursday, October 19, 2023  
**Subject:** Legislative Hearing on Four Federal Borderlands Security Bills

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The Subcommittee on Federal Lands will hold a legislative hearing on four federal borderlands security bills:

- Discussion Draft of H.R. \_\_\_\_\_ (Rep. Westerman), “*Ensuring Border Access and Protection on Federal Land Act*”;
- Discussion Draft of H.R. \_\_\_\_\_ (Rep. Tiffany), “*Trash Reduction And Suppressing Harm from Environmental Degradation at the Border Act (TRASHED Border Act)*”;
- H.R. 5283 (Rep. Malliotakis), “*Protecting our Communities from Failure to Secure the Border Act of 2023*”; and
- H.R. 1727, (Rep. Trone), “*Chesapeake and Ohio Canal National Historical Park Commission Extension Act.*”

The hearing will take place on **Thursday, October 19 at 10:00 a.m.** in room 1324 Longworth House Office Building.

Member offices are requested to notify Colen Morrow ([Colen.Morrow@mail.house.gov](mailto:Colen.Morrow@mail.house.gov)) by 4:30 p.m. on Wednesday, October 18, if their Member intends to participate in the hearing.

## **I. KEY MESSAGES**

- The Biden 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 border crisis is now spilling over into our nation’s parks and public lands. Illegal immigration creates trash pileups, unauthorized trails, and wildfires that threaten wildlife and destroy habitat. Access and recreational opportunities are cut off completely as the Biden administration turns parks into migrant shelters.

- 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.
- House Republicans passed H.R. 2 earlier this year to halt the record-breaking number of illegal migrants crossing into our country and secure our southern border.
- Today’s hearing takes further steps in securing federal borderlands, addressing safety concerns for the public attempting to recreate and access public lands, creating new access for law enforcement officers to patrol public borderlands, and stemming the detrimental environmental consequences of illegal immigration on public land along the border and in border communities.

## II. WITNESSES

### Panel I (Members of Congress):

- *To Be Announced*

### Panel II (Administration Officials):

- **Mr. Troy Heithecker**, Associate Deputy Chief, U.S. Forest Service, Washington, D.C. *[All bills]*
- **The Honorable Deb Haaland**, Secretary, Department of the Interior *[note: the Department has declined the opportunity to testify at the hearing]*

### Panel III (Outside Experts):

- **The Honorable Joann Ariola**, Council Member (R – 32<sup>nd</sup> District), New York City Council, New York City, NY *[H.R. 5283]*
- **Mr. Simon Hankinson**, Senior Research Fellow, Border Security and Immigration Center, The Heritage Foundation, Washington, D.C. *[Both Discussion Drafts]*
- **Dr. George Lewis**, Chair, C&O Canal National Historical Park Federal Advisory Commission, Jefferson, MD *[H.R. 1727] [Minority Witness]*
- *Additional witnesses to be announced*

## III. BACKGROUND

The Subcommittee on Federal Lands will hold this legislative hearing to continue the Committee on Natural Resources’ work addressing the crisis on our southern border and its impact on our parks and public lands. For additional background information on the Committee’s previous legislative and oversight hearings related to the border, please see information from:

- The full 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.\*](#)”

**[H.R. \(Rep. Westerman\), “Ensuring Border Access and Protection on Federal Land Act”](#)**

The Biden 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 President Biden took office, more than 6 million illegal immigrants crossed the southern border into the United States.<sup>1</sup>



Migrants attempting to cross the border illegally in Eagle Pass, Texas on September 27, 2023. **Source:** NBC News, 2023.

According to the U.S.

Customs and Border Patrol (CBP), migrant apprehensions are at near record highs, with 2.2 million apprehensions in fiscal year (FY) 2022 and a similar level predicted for FY 2023.<sup>2</sup> Last month alone, CBP reported more than 200,000 migrants illegally crossed the border, a high for the year and an increase from the 142,710 migrants who crossed the border two years prior.<sup>3</sup> Concerningly, drug seizures along the border are also increasing. CBP reported seizures of 25,500 pounds of fentanyl from October 2022 to August 2023, an 800 percent increase since FY 2019.<sup>4</sup> This is enough fentanyl to kill approximately 11.6 billion people, or enough fatal doses to kill the entire U.S. population 35 times over.

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.<sup>5</sup> 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 (BOR), and the U.S. Forest Service (USFS) all manage lands along the southern border.<sup>6</sup> Many of these lands have restrictive land designations, including national parks, national monuments, wilderness areas, and national wildlife refuges.

<sup>1</sup> Southwest Land Border Encounters, U.S. Customs and Border Protection, accessed September 28, 2023, <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>.

<sup>2</sup> Camilo Montoya-Galvez, "Migrant crossings soar to near-record levels, testing Biden's border strategy," CBS News, September 21, 2023, <https://www.cbsnews.com/news/border-crossings-migrants-us-mexico-biden-strategy/>.

<sup>3</sup> Erik Ortiz, "Influx of migrants at border gains renewed attention as 'crisis' rhetoric spreads," NBC News, October 4, 2023, <https://www.nbcnews.com/politics/politics-news/influx-migrants-border-gains-renewed-attention-crisis-rhetoric-spreads-rcna118595>.

<sup>4</sup> CBP, "CBP Releases August 2023 Monthly Update," September 22, 2023, <https://www.cbp.gov/newsroom/national-media-release/cbp-releases-august-2023-monthly-update#:~:text=In%20August%202023%2C%20the%20U.S.,Title%2042%20has%20significantly%20decreased>.

<sup>5</sup> 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>.

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

**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.

Federal lands along the border are often targeted by criminals, drug smugglers, and human traffickers because they are remote, uninhabited, and less frequently patrolled.<sup>7</sup> CBP officials have publicly stated these vast areas of federal land “provide transnational criminal organizations significant opportunities to cross their products” and are most often crossed by those who “have a criminal record, are smuggling illegal narcotics or weapons or are aliens from special interest countries.”<sup>8</sup> CBP agents also 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.”<sup>9</sup> For example, in wilderness areas, officers may have to wait for the arrival of horses to apprehend smuggling vehicles, since mechanized and motorized vehicles are prohibited within wilderness.<sup>10</sup> Even the Obama administration acknowledged these restrictions “can be detrimental to the most effective accomplishment of the [mission]” of securing the border.<sup>11</sup>

One of the largest access issues CBP officers face on federal lands is the lack of accessible roads to patrol the border. For example, in the Coronado National Forest in Arizona, “the inability to build proper access roads along and near the line, including secondary roads, diminished agent mobility while patrolling and ultimately prevented agents from being as

<sup>7</sup> 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](https://naturalresources.house.gov/uploadedfiles/brandon_judd_testimony_biden_border_crisis_forum.pdf).

<sup>8</sup> *Id.*

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

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

effective as they could otherwise be.”<sup>12</sup> Accessible roads, paired with physical barriers such as fencing or a wall in strategic locations, has been identified as “pivotal” in securing our southern border. This would follow the model of countries like Israel, which has constructed navigable, continuous patrol roads along fencing barriers along the Israeli border. Unfortunately, President Biden’s policies have only exacerbated this access situation. On February 2, 2021, President Biden revoked President Trump’s 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.<sup>13</sup> This Executive Order, combined with the lack of available patrol roads, has left our southern federal borderlands extremely vulnerable.

There is a present and immediate need to build physical barriers, including a wall, and accessible patrol roads along our southern border. Earlier this month, the Biden administration announced plans to construct a border wall and road along the southern border in Starr County, Texas.<sup>14</sup> The Federal Register notice accompanying this announcement stated: “There is presently an acute and immediate need to construct physical barriers and roads in the vicinity of the border of the United States in order to prevent unlawful entries into the United States....”<sup>15</sup> The planned border wall and road will be constructed through parts of the Lower Rio Grande Valley National Wildlife Refuge.<sup>16</sup> The Biden administration, with authority granted by Congress through the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, is waiving all environmental laws to construct the wall and accompanying road, including the National Environmental Policy Act (NEPA), Endangered Species Act, and 24 other environmental laws.<sup>17</sup>

However, this action does not go far enough. Roads and physical barriers must be constructed along the full length of federal borderlands to address other illegal access points. The “Ensuring Border Access and Protection on Federal Land Act” would direct the Secretaries of Agriculture and the Interior to install navigable roads on all federal lands along the southern border. The bill requires at least 584 miles of road, the most conservative estimate of federal land along the border.<sup>18</sup> This includes roughly 61 miles in California, 190 miles in Arizona, 81 miles in New Mexico, and 251 miles in Texas.<sup>19</sup> The road must be the full length of the southern border on federal lands, allow a line-of-sight, and be within one mile of the southern border. Additionally,

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<sup>12</sup> *Id.*

<sup>13</sup> 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/>) and Executive Order 13767 (<https://www.federalregister.gov/documents/2017/01/30/2017-02095/border-security-and-immigration-enforcement-improvements>).

<sup>14</sup> 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>.

<sup>15</sup> 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>.

<sup>16</sup> *Id.*

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

<sup>18</sup> Federal and Indian Lands on the U.S.-Mexico Border, Congressional Research Service, February 21, 2018, <https://www.crs.gov/Reports/IF10832>.

<sup>19</sup> *Id.*

the road must be completed within five years. The road will only be accessible to the Department of Defense, CBP, local law enforcement, and emergency response personnel, in addition to others the Secretary concerned deems necessary. The bill requires the Secretary concerned to work with the Secretary of Homeland Security to deploy fencing, surveillance, and related technology along the road. The road and accompanying technology shall be subject to NEPA requirements, as amended by the Fiscal Responsibility Act of 2023.<sup>20</sup> This legislation is crucial to secure our border, stop the smuggling of narcotics and weapons into our country, and halt environmental damage associated with illegal border crossers.

**H.R. (Rep. Tiffany), “Trash Reduction And Suppressing Harm from Environmental Degradation at the Border Act (TRASHED Border Act)”**



Trash along the border in Texas.

Source: Fox News, 2022.

There are devastating environmental consequences of illegal immigration. Illegal immigrants leave behind trash, including human waste, medical products, abandoned vehicles, and plastic. Illegal dumping of trash 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 for nearby residents. Additionally, illegal trails and wildfires sparked by cross-border violators’ (CBV’s) campfires contribute to the destruction of natural resources and wildlife habitat throughout federal borderlands.<sup>21</sup>

This trash puts an incredible strain on 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.<sup>22</sup> The Arizona Department of Environmental Quality estimates that more than 2,000 tons of trash are discarded annually along Arizona’s border.<sup>23</sup> For private landowners, such as ranchers, discarded “plastic bottles, jugs, cans, backpacks, clothing, shoes, coats, and trash” litter their property and can create serious risks for livestock who graze on those lands.<sup>24</sup> This trash

<sup>20</sup> Public Law 118-5.

<sup>21</sup> 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<sup>th</sup>, 2011, <https://www.gao.gov/products/gao-12-73>.

<sup>22</sup> Data provided by Bureau of Land Management to Committee Staff, February 6, 2023.

<sup>23</sup> ADEQ, “Arizona Border Trash,” <https://legacy.azdeq.gov/obep/waste.html>.

<sup>24</sup> Testimony of J.R. Ramirez, Texas & Southwestern Cattle Raisers Association, Committee on Homeland Security, Joint Subcommittee Hearing – Subcommittee on Border Security and Enforcement & Subcommittee on

accumulation also occurs on some of our most sensitive federal lands. For example, an NPS employee at Coronado National Memorial in Arizona reported piles of trash so large in remote locations in the park that the piles are “used as a resting spot” for illegal immigrants that then have “to be airlifted out.”<sup>25</sup>

The issue of trash accumulation as a result of illegal immigration is not limited solely to borderlands. USFS reported that 5,801 illegal cannabis cultivation sites were detected on National Forest System lands over the 2011-2022 period.<sup>26</sup> While data is limited, USFS estimated that they have removed 381,510 pounds of trash, 479 miles of plastic irrigation lines, and 228 containers of banned and illegal pesticides from these illegal cultivation sites over a roughly 20-year period.<sup>27</sup> This illegal cultivation also sparked wildfires, which burned over 265,00 acres.<sup>28</sup> USFS estimated that illegal marijuana cultivation on National Forest System lands earns cartels an estimated \$56 to \$91 million annually.<sup>29</sup>



An illegal marijuana cultivation site in the Shasta-Trinity National Forest.  
**Source:** USFS, 2017.

Committee Republicans have worked for several years to address this problem. In 2021, Committee Republicans visited the southern border and surveyed the trash and environmental degradation from CBVs. During a May 2021 Republican forum, Members heard testimony from several witnesses about the environmental impacts of President Biden’s border crisis including destruction of private ranchlands, degradation of sensitive environmental areas, and safety

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Counterterrorism: “The Real Cost of an Open Border: How Americans are Paying the Price, Wednesday, July 26, 2023.

<sup>25</sup> Margaret Grebowicz, “What Litter Tells Us About the Border Crisis,” Slate, June 4, 2021,

<https://slate.com/technology/2021/06/mexico-us-border-crisis-environmental-humanitarian-litter.html>.

<sup>26</sup> Response to questions for the record submitted by Chairman Westerman. On file with the Committee.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

concerns, for both U.S. Customs and Border Protection (CBP) agents and private citizens.<sup>30</sup> In March of 2023, the Subcommittee on Federal Lands held a hearing on legislation, H.R. that would create a program to eradicate illegal marijuana cultivation on National Forest System lands and raise penalties for illegal immigrants who use banned pesticides at these sites.<sup>31</sup>

As a continuation of this work, Subcommittee Chairman Tom Tiffany will introduce the “Trash Reduction And Suppressing Harm from Environmental Degradation at the Border (TRASHED Border) Act,” which addresses environmental damage on federal lands due to illegal immigration. This includes areas where aliens are being housed or camping on federal land, damage to sensitive natural and archaeological resources, and destruction of wildlife habitat. The bill would require federal land management agencies to develop policies and protocols to prevent and mitigate environmental damage from CBVs. In addition, to bring greater transparency, federal land management agencies must report the amount of waste collected on southern borderlands, 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 doubled for aliens without legal status in the bill.

### [H.R. 5283 \(Rep. Malliotakis\), “Protecting our Communities from Failure to Secure the Border Act of 2023”](#)

Illegal immigration is not just affecting southern borderlands but has also spilled over into major urban areas, like New York City (NYC), and the national park units within them. Over the past year, NYC has had more than 118,800 illegal immigrants flood into the city, prompting even Democratic Mayor Eric Adams to state that: “The president and the White House have failed New York City on this issue [immigration].”<sup>32</sup> NYC laws require the City to offer shelter to anybody who asks for it, regardless of their citizenship status, in what is known as “right to shelter.”<sup>33</sup> The City is now looking to suspend these laws, as the estimated costs for housing illegal immigrants will be roughly \$12 billion over the next three years.<sup>34</sup> However, prior to this proposed suspension, the City entered into a legally dubious lease with the Department of the Interior to house illegal immigrants within the boundary of Brooklyn’s Gateway National Recreation Area (NRA), a unit of the National Park System.<sup>35</sup>

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<sup>30</sup> The Biden Border Crisis: Environmental and Humanitarian Consequences: Forum Before House Committee on Natural Resources Republicans, May 27, 2021, <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=409767>.

<sup>31</sup> H.R. 1473, <https://www.congress.gov/bill/118th-congress/house-bill/1473>.

<sup>32</sup> Hurubie Meko, “What to Know About the Migrant Crisis in New York City,” The New York Times, September 28, 2023, <https://www.nytimes.com/article/nyc-migrant-crisis-explained.html>. Jeffery C. Mays, “Mayor Adams Criticizes Biden in Rare Public Rebuke Over Migrant Crisis,” The New York Times, April 19, 2023, <https://www.nytimes.com/2023/04/19/nyregion/adams-biden-migrants.html>.

<sup>33</sup> Anthony Izaguirre, “New York City moves to suspend ‘right to shelter’ as migrant influx continues,” October 4, 2023, <https://apnews.com/article/new-york-city-immigration-shelter-eric-adams-480120d5d46d4b85a3c353c628a7d018>.

<sup>34</sup> *Id.*

<sup>35</sup> Lease Between U.S. Department of the Interior, National Park Service, and the City of New York for the Premises known as Portions of Floyd Bennett Field, in the Jamaica Bay Unit of Gateway National Recreation Area, National

Finalized on September 15, 2023, against strong public outcry from the local community, the lease signed by the Biden administration proposes to house at least 2,000 migrants at Floyd Bennet Field in the NRA.<sup>36</sup> In doing so, the Committee believes the Biden administration violated several laws including NEPA, the



Migrants pictured outside the Roosevelt Hotel in NYC, the city’s primary intake center for homeless migrants. **Source:** CBS News, 2023.

enabling statute for the Gateway NRA, and NPS’s Organic Act, which outlines a very narrow and restrictive mission: “[The] purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”<sup>37</sup> In the documents included with the lease for the migrant camp at Floyd Bennett Field, NPS included a “Decision Memorandum and Environmental Review to Support Emergency Activities for Temporary Housing of Migrants” where NPS outlined its justifications for using emergency procedures under NEPA for the lease.<sup>38</sup> While the use of alternate arrangements itself is not an issue, this was a clear inappropriate use of the agency’s emergency authorities as an emergency did not exist within the park itself and was not threatening a park resource, rather, the emergency was occurring in the general vicinity of the park. This also raises serious concerns about the Biden administration’s impartiality in using this authority, as the administration has failed to do

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Park Service, Sep. 15, 2023, <https://www.nps.gov/aboutus/foia/upload/FINAL-LeaseFloyd-Bennet-Field-09-15-2023-2.pdf>.

<sup>36</sup> National Park Service, Lease Between U.S. Dep’t of the Interior, National Park Service and the City of New York for the Premises known as Portions of Floyd Bennett Field, in the Jamaica Bay Unit of Gateway National Recreation Area, DEP’T OF THE INTERIOR (Sep. 15, 2023), <https://www.nps.gov/aboutus/foia/upload/FINAL-Lease-Floyd-Bennet-Field-09-15-2023-2.pdf>.

<sup>37</sup> AN ACT TO ESTABLISH A NATIONAL PARK SERVICE, AND FOR OTHER PURPOSES, Approved August 25, 1916 (39 Stat. 535).

<sup>38</sup> National Park Service, *Decision Memorandum and Environmental Review to Support Emergency Activities for Temporary Housing of Migrants*, DEP’T OF THE INTERIOR (Sep. 11, 2023), [https://www.nps.gov/aboutus/foia/upload/For-PDAS\\_PMB-signature-GATE-Alternative-Arrangements-09-11-2023.pdf](https://www.nps.gov/aboutus/foia/upload/For-PDAS_PMB-signature-GATE-Alternative-Arrangements-09-11-2023.pdf).

so for other emergencies, such as the Giant Sequoia trees in Yosemite National Park, which caught on fire last year.



Campers at Floyd Bennet Field.

**Source:** Photo courtesy of Council Member Joann Ariola’s office.

Further, the Biden administration’s action created serious concerns about restricted access, decreased recreational activities, and decreased security for local residents. The NRA is a prominent recreation and conservation destination for water-based activities, opportunities for youth and families to experience nature, and wetland and coastal habitat restoration activities.<sup>39</sup> These activities are all in jeopardy as a result of this lease. For example,

parents have already pulled their kids out of a local Sea Cadets program as a result of safety concerns stemming from the NRA’s proposed use as migrant housing. The local community, which was unable to build soccer fields in the area, has expressed concerns about children recreating in the area due to strained police capacity.

The “Protecting our Communities from Failure to Secure the Border Act of 2023” would prohibit the use of federal funds to provide housing for migrants on federal lands managed by agencies such as the NPS, BLM, FWS, and USFS. This legislation is crucial to bolstering border security, the accounting of federal dollars, and protecting our national parks. Representative Malliotakis introduced the bill in response to the signing of the September 15<sup>th</sup> lease and concerns agencies like NPS would soon use other park units to house migrants. Last month, Chairman Westerman, Oversight & Investigations Subcommittee Chairman Gosar, and Representative Malliotakis toured impacted sites in the NYC area.<sup>40</sup> Following the tour, the House Committee on Natural Resources held an oversight hearing on examining the Biden administration’s use of NPS lands

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<sup>39</sup> National Park Service, *Gateway National Recreation Area: General Management Plan and Environmental Impact Statement, Record of Decision*, U.S. DEP’T OF THE INTERIOR (June 11, 2014), [https://www.nps.gov/gate/learn/management/upload/GATE\\_GMP\\_ROD\\_JUNE2014-2.pdf](https://www.nps.gov/gate/learn/management/upload/GATE_GMP_ROD_JUNE2014-2.pdf).

<sup>40</sup> Westerman Visits NYC Migrant Processing Center, Condemns Misuse of National Park Land, House Natural Resources Committee, September 18, 2023, <https://naturalresources.house.gov/news/documentsingle.aspx?DocumentID=414852>.

for migrant camps.<sup>41</sup> Council Member Ariola, a witness at this hearing, along with a Democratic Assemblymember and representative from the U.S. Park Police all testified about the serious concerns they have with leasing NPS lands for the purposes of creating migrant shelters. H.R. 5283 currently has 10 cosponsors.

**H.R. 1727, (Rep. Trone), “Chesapeake and Ohio Canal National Historical Park Commission Extension Act”**

The Committee will also consider H.R. 1727, the “Chesapeake and Ohio Canal National Historical Park Commission Extension Act.” This bill demonstrates the great relationship NPS can have with local communities surrounding park units, unlike NPS’s disregard of the local community and stakeholders surrounding Brooklyn’s Gateway National Recreation Area.<sup>42</sup>

H.R. 1727 would renew the federal advisory commission for the Chesapeake and Ohio Canal National Historic Park (C&O Canal). The C&O Canal stretches over 184.5 miles from Georgetown in Washington D.C. to Cumberland, Maryland. The Canal played a critical role in the transportation of many agricultural products, coal, and lumber along the Potomac River for nearly 100 years.<sup>43</sup> Today, the National Historic Park’s canal and towpath offer numerous outdoor recreational opportunities, including rides on replica canal boats guided by NPS rangers that help tell the story of this unique part of American history.<sup>44</sup> In 2021, over 5 million visitors to the C&O Canal generated \$161 million in economic output in local gateway communities surrounding the park.<sup>45</sup>

The Chesapeake & Ohio Canal National Historic Park Commission (Commission) helps advise the Secretary of the Interior on matters related to the development and administration of the park.<sup>46</sup> The Commission is comprised of nineteen members serving terms of five years each. Throughout its history, the Commission has provided an important link between the NPS and local communities. The Commission engages on issues related to visitor safety and enjoyment, the management of scenic easement, land exchanges, as well as other aspects of the strategic planning process.<sup>47</sup> H.R. 1727 would reauthorize the Chesapeake and Ohio Canal National Historical Park Commission through September 30, 2034, ten years beyond the Commission’s current authorization expiration date of September 26, 2024.<sup>48</sup> This is a bipartisan bill that is

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<sup>41</sup> Destroying America’s Best Idea: Examining the Biden Administration’s Use of National Park Service Lands for Migrant Camps, Full Committee Hearing, September 27, 2023. Hearing, memo, and witness testimony are available online: <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=414853>.

<sup>42</sup> Destroying America’s Best Idea: Examining the Biden Administration’s Use of National Park Service Lands for Migrant Camps, Full Committee Hearing, September 27, 2023. Hearing, memo, and witness testimony are available online: <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=414853>.

<sup>43</sup> National Park Service, “Chesapeake & Ohio Canal”, <https://www.nps.gov/choh/index.htm>.

<sup>44</sup> National Park Service, “Public Canal Boat Programs”, <https://www.nps.gov/choh/planyourvisit/publicboatrides.htm>.

<sup>45</sup> C&O Canal Trust, “Visitors to C&O National Historical Park Create \$161 Million Economic Benefit to Gateway Communities; Support 1,360 Jobs”, <https://www.canaltrust.org/2022/06/visitors-to-c-support-1360-jobs/>.

<sup>46</sup> National Park Service, “Federal Advisory Commission”, <https://www.nps.gov/choh/learn/management/federal-advisory-commission.htm>.

<sup>47</sup> *Id.*

<sup>48</sup> 2022 Maryland State Archives, “Chesapeake & Ohio Canal National Historical Park Commission”, March 14, 2022, <https://msa.maryland.gov/msa/mdmanual/39fed/08comm/html/ches.html>.

being co-led by Rep. Mooney (R-WV-02). Bipartisan companion legislation in the Senate is being led by Senators Cardin (D-MD) and Capito (R-WV).

#### **IV. MAJOR PROVISIONS & SECTION-BY-SECTION**

##### **H.R. (Rep. Westerman), “Ensuring Border Access and Protection on Federal Land Act”**

###### **Section 2. Enhancing Border Security Through the Construction of Navigable Roads Along Federal Border Lands.**

- Directs the Secretaries of Agriculture and the Interior, in consultation with the Secretary of Homeland Security, to install navigable roads on federal borderlands under the jurisdiction of the Secretary to deter illegal crossings and gain operational control of the southern border.
- Specifies the road must be the full length of the southern border on federal lands, allow a line-of-sight, and be within one mile of the southern border. Additionally, the road must be completed within five years.
- Directs the Secretaries of Agriculture and the Interior to maintain the road and ensure access for Department of Defense, U.S. Customs and Border Protection, law enforcement, and emergency personnel, in addition to any other personnel the Secretary deems necessary.
- Requires coordination with the Secretary of Homeland Security to deploy fencing, surveillance, and related technology to deter illegal crossings and gain control of the southern border.
- Ensures National Environmental Policy Act compliance, as amended by the Fiscal Responsibility Act of 2023.

##### **H.R. (Rep. Tiffany), “Trash Reduction And Suppressing Harm from Environmental Degradation at the Border Act (TRASHED Border Act)”**

###### **Section 2. Policies and Procedures to Reduce Trash Along the Southern Border.**

- Requires the Secretaries of Agriculture and of the Interior to develop policies and protocols to prevent and mitigate environmental damage caused by aliens without lawful immigration status on federal land along the southern border or those being housed on federal land.
- Policies and protocols must address trash and destruction of resources and wildlife habitat.

###### **Section 3. Transparency and Accountability in Trash Accumulation on the Southern Border.**

- Requires the Secretaries to submit a report on the amount of waste collected on federal lands along the southern border, including at sites used for the illegal cultivation of narcotics and on lands being used to house illegal immigrants.
- The report must detail the total amount of waste collected, acres of wildlife habitat impacted, discovery of unauthorized trails, and number of wildfires started as a result of illegal immigration.

#### **Section 4. Penalties and Fines.**

- Doubles fines and penalties as they relate to fire, waste, and environmental degradation on federal lands for aliens without legal status.
- Requires the Secretaries to enforce these fines and penalties on federal borderlands.
- Directs the agencies to submit a report on the amount collected in fines and penalties.

#### **[H.R. 5283 \(Rep. Malliotakis\), “Protecting our Communities from Failure to Secure the Border Act of 2023”](#)**

#### **Section 2. Prohibition on Providing Housing to Specified Aliens.**

- Prohibits any federal funds to provide housing, including a temporary or permanent encampment, to illegal immigrants on any land under the jurisdiction of federal land management agencies, including through leases, contracts, or agreements. This would apply to NPS, BLM, USFWS, and USFS.

#### **[H.R.1727, \(Rep. Trone\), “Chesapeake and Ohio Canal National Historical Park Commission Extension Act”](#)**

#### **Section 2. Chesapeake and Ohio Canal National Historical Park Commission.**

- Extends the authorization of the Chesapeake and Ohio Canal National Historical Park Commission to September 20, 2034.

#### **V. COST**

None of the bills have received a formal cost estimate from the Congressional Budget Office (CBO).

#### **VI. ADMINISTRATION POSITION**

The administration testified in support of S. 924, the identical companion bill to H.R. 1727, during a Senate Energy and Natural Resources legislative hearing.<sup>49</sup>

The administration position on the remaining bills is unknown at this time.

#### **VII. EFFECT ON CURRENT LAW (RAMSEYER)**

##### **[H.R. 1727](#)**

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<sup>49</sup> Statement of Michael A. Caldwell, Associate Director, Park Planning, Facilities, and Lands, National Park Service, Senate Energy and Natural Resources Subcommittee on National Parks, June 21, 2023, <https://www.energy.senate.gov/services/files/5BC81CC6-50F1-4924-8F95-5CFBBD760EBF>.