

**Testimony of**  
**United States Department of Agriculture**  
**Forest Service**

**Before the**  
**United States House**  
**Committee on Natural Resources**  
**Subcommittee on Federal Lands**

**October 19, 2023**

**Concerning**

**H.R. \_\_\_, “Ensuring Border Access and Protection on Federal Land Act”**  
**H.R. 5283, “Protecting our Communities from Failure to Secure the Border Act of 2023”**  
**H.R. \_\_\_, “TRASHED Border Act”**

Chairman Tiffany, Ranking Member Neguse, and Members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) on three bills pertaining to Southern border security on National Forest System lands.

As an agency in service to the American people, the Forest Service cares for shared natural and cultural resources in ways that promote lasting economic, ecological, and social vitality. The agency manages 155 national forests and 20 national grasslands, comprising 193 million acres in 41 states and Puerto Rico. To accomplish our mission to sustain the health, diversity, and productivity of the nation’s forests and grasslands, we engage in co-stewardship and cross-boundary partnerships with Tribes, and work with a wide range of stakeholders across all levels of government, communities, and non-profit and for-profit entities. These partnerships extend to our work with U.S. Customs and Border Protection (CBP) to provide support to CBP’s efforts to secure the nation’s borders while simultaneously fulfilling the agency’s mission.

The Forest Service does not have jurisdiction over immigration policy and therefore we defer to the Department of Homeland Security regarding broader questions about immigration and border security policy. We are working with other government agencies, including the Department of the Interior, on a cohesive, cooperative approach to border security, while Congress and others work to comprehensively address immigration policies generally.

## **H.R. \_\_\_ (Discussion Draft), a bill to direct the Secretary of the Interior and the Secretary of Agriculture to construct roads on Federal lands along the United States border with Mexico**

On H.R. XX, “Ensuring Border Access and Protection on Federal Land Act,” a bill that seeks to improve security in our southern border, USDA has significant concerns with this draft legislation and welcomes the opportunity to work with the Committee to explain these concerns more fully.

H.R. XX directs the Secretary of Agriculture and the Secretary of the Interior to construct roads on federal lands along the United States border with Mexico to prevent illegal crossings in areas of high illegal entry and gain operational control of the border within 5 years after the enactment of the Act. The roads would need to be contiguous, with line-of-sight visibility, no more than one mile from the southern border and accessible to passenger cars. It specifies road requirements, access, maintenance, fencing, surveillance, and other related technology. Accessibility would be limited to U.S. Customs and Border Protection personnel, law enforcement officials, emergency response personnel, and as otherwise determined by the Secretaries. It also requests compliance with all applicable laws, including the National Environmental Policy Act and the Fiscal Responsibility Act of 2023.

Currently, the Forest Service has approximately 22 miles of road along the Coronado National Forest and Mexico border that meet most of the bill requirements. The implementation of the draft bill would require the construction and reconstruction of 45 to 55 miles of roads on steep and rocky terrain not suitable for roads within a 1-mile visibility of the border and would require these roads to be contiguous. There are sections of the border inside the boundaries of the Pajarita Wilderness area in the southwest portion of the Coronado National Forest where road construction would not be allowed. An important consideration is the initial investment of over \$40-\$60 million and an annual maintenance cost of \$240,000-280,000.

The associated costs of proposed road construction, operations, and maintenance would exceed current financial and personnel capacity of the Agency to undertake and would add to the current maintenance backlog. In addition, the time required to conduct the road location analysis, design, and construction would likely exceed the timeframe specified in the bill. Finally, we note that in accordance with the MOU entered between the Forest Service, Department of Homeland Security, and Department of the Interior, the identification, review, approval and maintenance of new roads along the southern border is managed by CBP, in coordination with the applicable land management agency.

The bill proposes limiting access to the area along the Coronado National Forest and Mexico border. However, it is a popular area for the public to recreate and maintaining public access is important. In addition, CBP has requested Forest Service not close existing roads to public access as they want quick access along these roads, which would be hindered by closures.

## **H.R. 5283**

H.R. 5283, “Protecting Our Communities from Failure to Secure the Border Act of 2023,” would prevent certain federal land management agencies, including the Forest Service, from providing federal funds that might be used to provide housing to certain noncitizens (as defined in section 101(a) of the Immigration and Nationality Act) on any land under their administrative jurisdiction, including through leases, contracts, or agreements. Section 2(b) defines the term “housing” as a temporary or permanent encampment used for the primary purpose of sheltering certain noncitizens.

USDA does not believe that H.R. 5283 would change the Agency’s current management of public lands under its administrative jurisdiction. We do not believe it is necessary and therefore do not support this legislation.

## **H.R. \_\_\_ (Discussion Draft), a bill to direct the Secretary of the Interior and the Secretary of Agriculture to submit to Congress a report on the amount of waste collected on certain Federal land along the southern border of the United States**

USDA shares the Committee’s concerns with impacts associated with deposition of waste, illegal camping and encroaching, illegal grow sites, and human-caused wildfires. We would like to work with the committee to further discuss our concerns described below.

Section 2 of the draft bill would direct the Secretary of Agriculture to establish and implement policies and protocols to prevent and mitigate environmental degradation caused by certain noncitizens on NFS lands that share an exterior boundary with the southern border. The Clean Water Act, Clean Air Act, and other environmental laws provide the authorities to protect the environment. The Forest Service currently prohibits activities such as littering, damaging property, and resource degradation under current regulations (e.g., 36 CFR Part 261–Prohibitions) and therefore does not believe this requirement in the bill is necessary.

Only one National Forest, the Coronado National Forest, shares a boundary with the southern border. Sixty non-contiguous miles of the international border with Mexico are managed by the Forest. Law enforcement officers working on the Coronado National Forest conduct general patrols and investigations associated with national forest recreation and other uses. A considerable focus of their work is on wildfire prevention, wildfire investigation, and security details for fire management and wildland firefighting operations.

Litter is a persistent problem on National Forest System lands. Coronado National Forest employees collect trash periodically throughout the year with the help of partners and volunteers to address litter in the Forest. Despite these efforts, the overall amount of trash continues to rise annually.

Section 3 of this bill would also direct the Secretary to submit to Congress a report on the amount of waste collected on the Coronado National Forest, on sites on any NFS lands where certain noncitizens are being housed or are sheltering, and on sites on any NFS lands where

certain noncitizens have illegally cultivated controlled substances. In addition, the report would include acres of wildlife habitat impacted by the waste, information on associated unauthorized trails and roads, and information on number of wildfires started by certain noncitizens.

Nationwide, waste deposition, illegal camping and encroachment, illegal grow sites, and human-caused wildfires are caused by both citizens and noncitizens. While the agency tracks the number and extent of human-caused wildfires, illegal grow sites, and pounds of waste removed from grow sites, the agency does not currently track and cannot determine with any certainty whether these damages are caused by citizens or noncitizens. In most cases it would be difficult or impossible to do so. Section 4 of the bill also directs the Secretary to double the fines and penalties—only for noncitizens—for activities prohibited under applicable fire and sanitation regulations. The Secretary would also be directed to submit a report detailing the total amount collected in penalties and fines under this section. The USDA defers to the U.S. Department of Justice for its views on this provision.

Chairman Tiffany and Ranking Member Neguse, that concludes my statement. I would be happy to answer any questions you may have.