

111TH CONGRESS
1ST SESSION

H. R. 3629

To require the Secretary of Homeland Security to develop and implement a mitigation plan to address the ecological impacts of border security measures and activities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2009

Mr. RODRIGUEZ (for himself and Mr. GRIJALVA) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require the Secretary of Homeland Security to develop and implement a mitigation plan to address the ecological impacts of border security measures and activities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Healthy Borderlands
5 Act of 2009”.

1 **SEC. 2. MITIGATION PLAN.**

2 (a) IN GENERAL.—The Secretary of Homeland Secu-
3 rity, in consultation with the Secretary of the Interior, the
4 Secretary of Agriculture, and the heads of appropriate
5 State and tribal wildlife agencies and entities, shall de-
6 velop and implement a comprehensive mitigation plan (in
7 this section referred to as the “mitigation plan”) to ad-
8 dress the ecological and environmental impacts of border
9 security infrastructure, measures, and activities along the
10 international land borders of the United States.

11 (b) REQUIREMENTS.—The mitigation plan required
12 under subsection (a) shall include measures to address and
13 mitigate the full range of ecological and environmental im-
14 pacts of border security infrastructure, measures, and ac-
15 tivities, including—

16 (1) preserving, maintaining, and, if necessary,
17 restoring wildlife migration corridors, key habitats,
18 and the ecologically functional connectivity between
19 and among key habitats sufficient to ensure that
20 species (whether or not designated as rare, pro-
21 tected, or of concern) remain viable and are able to
22 adapt to the impacts of climate change;

23 (2) addressing control of invasive species and
24 implementing measures necessary to avoid the
25 spread of such species;

1 (3) maintaining hydrological functionality, in-
2 cluding water quantity and quality;

3 (4) incorporating adaptive management, includ-
4 ing detailed provisions for long-term monitoring of
5 the mitigation plan's effectiveness and for necessary
6 adjustments to such plan based on such monitoring
7 results; and

8 (5) protection of cultural and historical re-
9 sources.

10 (c) PREEMPTION.—

11 (1) IN GENERAL.—Notwithstanding any other
12 provision of law, the Secretary of Homeland Security
13 may, subject to paragraph (2), carry out the mitiga-
14 tion plan on any Federal, State, private, or tribal
15 lands regardless of which individual, agency, or enti-
16 ty has principal responsibility for the management of
17 any such lands.

18 (2) CONDITIONS.—Activities carried out under
19 paragraph (1) in connection with the mitigation plan
20 shall be carried out in full consultation with, and
21 with the concurrence of, the owner of, or entity with
22 principal responsibility for, the management of the
23 lands described in such paragraph.

24 (d) ADMINISTRATION.—

1 (1) AUTHORIZATION.—The Secretary of Home-
2 land Security may transfer funds of the Department
3 of Homeland Security to other Federal agencies
4 for—

5 (A) expenditure under programs of such
6 agencies that are designed to fund conservation
7 related activities on non-Federal lands, includ-
8 ing land acquisition programs; and

9 (B) mitigation activities on Federal lands
10 managed by such agencies, if such activities are
11 required to implement the mitigation plan and
12 if the costs of such activities are above the costs
13 associated with managing such lands in the ab-
14 sence of such activities.

15 (2) ACCEPTANCE AND USE OF DONATIONS.—
16 The Secretary of Homeland Security may accept and
17 use donations for the purpose of developing and im-
18 plementing the mitigation plan, and may transfer
19 such funds to any other Federal agency for expendi-
20 ture under such plan pursuant to the authorization
21 under paragraph (1).

22 (3) EXEMPTION FROM REPROGRAMMING RE-
23 QUIREMENTS.—Funds transferred pursuant to the
24 authorization under paragraph (1), including dona-

1 tions under paragraph (2), shall not be subject to re-
2 programming requirements.

3 (4) AUTHORIZATION OF APPROPRIATIONS.—
4 Notwithstanding any other provision of law,
5 amounts authorized to be appropriated to the Sec-
6 retary of Homeland Security for border security in-
7 frastructure and activities may be used by the Sec-
8 retary to develop and implement the mitigation plan.

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