

Calendar No. 291

103D CONGRESS
1ST SESSION

H. R. 698

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To protect Lechuguilla Cave and other resources and values in and adjacent to Carlsbad Caverns National Park.

NOVEMBER 17 (legislative day, NOVEMBER 2), 1993
Reported with an amendment

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IN THE SENATE OF THE UNITED STATES

MAY 13 (legislative day, APRIL 19), 1993

Received; read twice and referred to the Committee on Energy and Natural
Resources

NOVEMBER 17 (legislative day, NOVEMBER 2), 1993

Reported by Mr. JOHNSTON, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

To protect Lechuguilla Cave and other resources and values
in and adjacent to Carlsbad Caverns National Park.

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, FINDING, AND DEFINITIONS.**

4 (a) ~~SHORT TITLE.~~—This Act may be cited as the
5 “Lechuguilla Cave Protection Act of 1993”.

6 (b) ~~FINDING.~~—Congress finds and declares that
7 ~~Lechuguilla Cave and other significant cave resources of~~
8 ~~Carlsbad Caverns National Park and adjacent public lands~~
9 ~~in the cave protection area have internationally significant~~

1 scientific, environmental, and other values and should be
2 retained in public ownership and protected against adverse
3 effects of mineral exploration and development and other
4 activities presenting threats to those values.

5 (c) DEFINITIONS.—As used in this Act—

6 (1) the term “the Secretary” means the Sec-
7 retary of the Interior.

8 (2) the term “cave protection area” means the
9 lands within the area depicted on the map referred
10 to in section 2(b).

11 (3) except as otherwise specified in this Act, all
12 other terms, including the term “public lands,” shall
13 have the same meaning as such terms have in the
14 Federal Land Policy and Management Act of 1976
15 (43 U.S.C. 1701 et seq.).

16 **SEC. 2. LAND WITHDRAWAL.**

17 (a) WITHDRAWAL.—Subject to valid existing rights,
18 the approximately 6,280 acres of public lands within the
19 cave protection area, and all other lands within the bound-
20 aries of the cave protection area which may hereafter be-
21 come subject to the operation of the public land laws, are
22 hereby withdrawn from all forms of appropriation or dis-
23 posal under the public land laws (including the mining and
24 material disposal laws) and from the operation of the min-
25 eral leasing and geothermal leasing laws.

1 (b) LAND DESCRIPTION.—The lands referred to in
2 subsection (a) are the lands generally depicted on the map
3 entitled “Lechuguilla Cave Protection Area” dated April
4 1993 and filed in accordance with subsection (c).

5 (c) PUBLICATION, FILING, CORRECTION, AND IN-
6 SPECTION.—

7 (1) As soon as possible after the date of enact-
8 ment of this Act, the Secretary shall publish in the
9 Federal Register a notice containing the legal de-
10 scription of the lands withdrawn by subsection (a)
11 and shall file such legal description and a detailed
12 map of the lands referred to in such subsection with
13 the Committee on Natural Resources of the House
14 of Representatives and the Committee on Energy
15 and Natural Resources of the Senate.

16 (2) The map and legal description referred to in
17 paragraph (1) shall have the same force and effect
18 as if included in this Act except that the Secretary
19 may correct clerical and typographical errors in such
20 map and legal description.

21 (3) Copies of the map and legal description re-
22 ferred to in subsection (b) shall be available for pub-
23 lic inspection in the offices of the Director and ap-
24 propriate State Director of the Bureau of Land
25 Management.

1 ~~(d) MANAGEMENT.—The public lands withdrawn by~~
2 this section shall be managed by the Secretary, through
3 the Director of the Bureau of Land Management, pursu-
4 ant to the Federal Land Policy and Management Act of
5 1976 (43 U.S.C. 17901 et seq.) and other applicable law,
6 including this Act.

7 **SEC. 3. MANAGEMENT OF EXISTING LEASES.**

8 ~~(a) SUSPENSION OF NEW DRILLING.—(1)(A) Effec-~~
9 tive on the date of enactment of this Act, the Secretary
10 shall not permit any new drilling on or involving any valid
11 mineral or geothermal leases within the lands withdrawn
12 by section 2.

13 ~~(B) If the Secretary deems it appropriate in order~~
14 to prevent an adverse impact on Lechuguilla Cave or other
15 significant cave resources of Carlsbad Caverns National
16 Park and the lands within the cave protection area, the
17 Secretary shall require suspension of any other activities
18 with respect to such leases.

19 ~~(2) The prohibition on new drilling imposed by para-~~
20 graph ~~(1)~~ shall remain in effect until the effective date
21 of a record of decision regarding the proposal to drill ana-
22 lyzed in the Dark Canyon Environmental Impact State-
23 ment, or for 12 months after the date of enactment of
24 this Act, whichever first occurs. Nothing in this subsection

1 shall be construed as requiring the Secretary to permit
2 or prohibit new drilling after such period.

3 ~~(b) NEGOTIATIONS.—(1) During the period specified~~
4 ~~in subsection (a)(2), the Secretary shall seek the agree-~~
5 ~~ment of the holders of existing valid mineral or geothermal~~
6 ~~leases on the public lands withdrawn by section 2(a) for~~
7 ~~the termination of such leases or to such restrictions on~~
8 ~~activities on lands covered by such leases as the Secretary~~
9 ~~deems appropriate to protect Lechuguilla Cave and the~~
10 ~~other significant cave resources of Carlsbad Caverns Na-~~
11 ~~tional Park and the lands within the cave protection area.~~

12 ~~(2)(A) With respect to any lease for which no agree-~~
13 ~~ment of the type described in paragraph (1) of this sub-~~
14 ~~section has been reached at the end of the period specified~~
15 ~~in subsection (a)(2), the Secretary shall take such steps~~
16 ~~as the Secretary deems appropriate in order to protect~~
17 ~~Lechuguilla Cave and the other significant cave resources~~
18 ~~of Carlsbad Caverns National Park and the lands within~~
19 ~~the cave protection area.~~

20 ~~(B) The steps referred to in subparagraph (A) may~~
21 ~~include acquisition of the lands covered by such leases or~~
22 ~~any interests therein. In the event of such acquisition, any~~
23 ~~lands or interests therein so acquired shall be managed~~
24 ~~pursuant to the Federal Land Policy and Management Act~~
25 ~~of 1976 and other applicable law, including this Act.~~

1 (3) To the extent the Secretary deems desirable, the
2 Secretary shall seek the cooperation of the State of New
3 Mexico and any other parties owning lands within the cave
4 protection area with respect to such restrictions on the
5 use of relevant lands owned by such parties as the Sec-
6 retary may suggest in order to further the protection of
7 Lechuguilla Cave and the other significant cave resources
8 of Carlsbad Caverns National Park and the lands within
9 the cave protection area.

10 **SEC. 4. ADDITIONAL PROTECTION AND RELATION TO**
11 **OTHER LAWS.**

12 (a) **ADDITIONAL PROTECTION.**—(1) If on the basis
13 of scientific analysis found by the Secretary to be relevant
14 and credible, the Secretary deems it appropriate to take
15 additional steps to protect Lechuguilla Cave or the other
16 significant cave resources of Carlsbad Caverns National
17 Park and the lands within the cave protection area, the
18 Secretary, pursuant to the authority of the Federal Land
19 Policy and Management Act of 1976 or other applicable
20 law, shall take such steps.

21 (2) To the extent the Secretary finds appropriate in
22 order to protect Lechuguilla Cave and the other significant
23 cave resources of Carlsbad Caverns National Park or the
24 lands within the cave protection area, the Secretary may
25 limit or prohibit access to or across lands owned by the

1 United States or prohibit the removal from such lands of
2 any mineral, geological, or cave resources except as the
3 Secretary may permit for scientific purposes.

4 (3) If the Secretary determines that existing law, in-
5 cluding this Act, provides the Secretary insufficient au-
6 thority to take any step the Secretary deems desirable in
7 order to protect Lechuguilla Cave or other significant cave
8 resources of Carlsbad Caverns National Park or the lands
9 within the cave protection area, the Secretary shall inform
10 the Committee on Natural Resources of the House of Rep-
11 resentatives and the Committee on Energy and Natural
12 Resources of the Senate concerning the additional author-
13 ity the Secretary believes desirable.

14 (b) RELATION TO OTHER LAWS.—Nothing in this
15 Act shall be construed as increasing or diminishing the
16 ability of any party to seek compensation pursuant to
17 other applicable law, including but not limited to the
18 Tucker Act (28 U.S.C. 1491), or as precluding any de-
19 fenses or claims otherwise available to the United States
20 in connection with any action seeking such compensation
21 from the United States.

22 **SECTION 1. SHORT TITLE.**

23 *This Act may be cited as the “Lechuguilla Cave Protec-*
24 *tion Act of 1993”.*

1 **SEC. 2. FINDING.**

2 *Congress finds that Lechuguilla Cave and adjacent*
3 *public lands have internationally significant scientific, en-*
4 *vironmental, and other values, and should be retained in*
5 *public ownership and protected against adverse effects of*
6 *mineral exploration and development and other activities*
7 *presenting threats to the areas.*

8 **SEC. 3. LAND WITHDRAWAL.**

9 *(a) WITHDRAWAL.—Subject to valid existing rights, all*
10 *Federal lands within the boundaries of the cave protection*
11 *area described in subsection (b) are hereby withdrawn from*
12 *all forms of entry, appropriation, or disposal under the*
13 *public land laws; from location, entry, and patent under*
14 *the United States mining laws; and from disposition under*
15 *all laws pertaining to mineral and geothermal leasing, and*
16 *all amendments thereto.*

17 *(b) LAND DESCRIPTION.—The cave protection area re-*
18 *ferred to in subsection (a) shall consist of approximately*
19 *6,280 acres of lands in New Mexico as generally depicted*
20 *on the map entitled “Lechuguilla Cave Protection Area”*
21 *numbered 130/80,055 and dated April 1993.*

22 *(c) PUBLICATION, FILING, CORRECTION, AND INSPEC-*
23 *TION.—(1) As soon as practicable after the date of enact-*
24 *ment of this Act, the Secretary of the Interior (hereinafter*
25 *referred to as the “Secretary”) shall publish in the Federal*
26 *Register the legal description of the lands withdrawn under*

1 subsection (a) and shall file such legal description and a
2 detailed map with the Committee on Energy and Natural
3 Resources of the United States Senate and the Committee
4 on Natural Resources of the United States House of Rep-
5 resentatives.

6 (2) Such map and legal description shall have the
7 same force and effect as if included in this Act except that
8 the Secretary may correct clerical and typographical errors.

9 (3) Copies of such map and legal description shall be
10 available for inspection in the appropriate offices of the Bu-
11 reau of Land Management.

12 **SEC. 4. MANAGEMENT OF EXISTING LEASES.**

13 (a) *SUSPENSION.*—The Secretary shall not permit any
14 new drilling on or involving any Federal mineral or geo-
15 thermal lease within the cave protection area referred to in
16 section 3(a) until the effective date of the Record of Decision
17 for the Dark Canyon Environmental Impact Statement, or
18 for 12 months after the date of enactment of this Act, which-
19 ever occurs first.

20 (b) *AUTHORITY TO CANCEL EXISTING MINERAL OR*
21 *GEOTHERMAL LEASES.*—Upon the effective date of the
22 Record of Decision for the Dark Canyon Environmental
23 Impact Statement and in order to protect Lechuguilla Cave
24 or other cave resources, the Secretary is authorized to—

1 (1) *cancel any Federal mineral or geothermal*
2 *lease in the cave protection area referred to in section*
3 *3(a); or*

4 (2) *enter into negotiations with the holder of a*
5 *Federal mineral or geothermal lease in the cave pro-*
6 *tection area referred to in section 3(a) to determine*
7 *appropriate compensation, if any, for the complete or*
8 *partial termination of such lease.*

9 **SEC. 5. ADDITIONAL PROTECTION AND RELATION TO**
10 **OTHER LAWS.**

11 (a) *IN GENERAL.*—*In order to protect Lechuguilla*
12 *Cave or Federal lands within the cave protection area, the*
13 *Secretary, subject to valid existing rights, may limit or pro-*
14 *hibit access to or across lands owned by the United States*
15 *or prohibit the removal from such lands of any mineral,*
16 *geological, or cave resources: Provided, That existing access*
17 *to private lands within the cave protection area shall not*
18 *be affected by this subsection.*

19 (b) *NO EFFECT ON PIPELINES.*—*Nothing in this title*
20 *shall have the effect of terminating any validly issued right-*
21 *of-way, or customary operation, maintenance, repair, and*
22 *replacement activities in such right-of-way; prohibiting the*
23 *upgrading of and construction on existing facilities in such*
24 *right-of-way for the purpose of increasing capacity of the*
25 *existing pipeline; or prohibiting the renewal of such right-*

1 *of-way within the cave protection area referred to in section*
2 *3(a).*

3 *(c) RELATION TO OTHER LAWS.—Nothing in this Act*
4 *shall be construed as increasing or diminishing the ability*
5 *of any party to seek compensation pursuant to other appli-*
6 *cable law, including but not limited to the Tucker Act (28*
7 *U.S.C. 1491), or as precluding any defenses or claims other-*
8 *wise available to the United States in connection with any*
9 *action seeking such compensation from the United States.*

10 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

11 *There is hereby authorized to be appropriated such*
12 *sums as may be necessary to carry out this Act; Provided,*
13 *That no funds shall be made available except to the extent,*
14 *or in such amounts as are provided in advance in Appro-*
15 *priation Acts.*

Passed the House of Representatives May 11, 1993.

Attest: DONNALD K. ANDERSON,
Clerk.