

103D CONGRESS
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H. R. 880

To withdraw certain Federal lands in the State of California for military purposes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1993

Mr. VENTO (for himself, Mr. LEHMAN, and Mr. MILLER of California) introduced the following bill; which was referred jointly to the Committees on Armed Services and Natural Resources

A BILL

To withdraw certain Federal lands in the State of California for military purposes, 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 AND FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “California Military Lands Withdrawal and Overflights
6 Act of 1993”.

7 (b) FINDINGS.—The Congress finds that—

8 (1) the Federal lands within the desert regions
9 of California have provided essential opportunities
10 for military training, research, and development for

1 the Armed Forces of the United States and allied
2 nations;

3 (2) alternative sites for military training and
4 other military activities carried out on Federal lands
5 in the California desert area are not readily avail-
6 able;

7 (3) while changing world conditions have less-
8 ened to some extent the immediacy of military
9 threats to the national security of the United States
10 and its allies, there remains a need for military
11 training, research, and development activities of the
12 types that have been carried out on Federal lands in
13 the California desert area; and

14 (4) continuation of existing military training,
15 research, and development activities, under appro-
16 priate terms and conditions, is not incompatible with
17 the protection and proper management of the natu-
18 ral, environmental, cultural, and other resources and
19 values of the Federal lands in the California desert
20 area.

21 **SEC. 2. WITHDRAWALS.**

22 (a) CHINA LAKE.—(1) Subject to valid existing rights
23 and except as otherwise provided in this Act, the Federal
24 lands referred to in paragraph (2), and all other areas
25 within the boundary of such lands as depicted on the map

1 specified in such paragraph which may become subject to
2 the operation of the public land laws, are hereby with-
3 drawn from all forms of appropriation under the public
4 land laws (including the mining laws and the mineral leas-
5 ing laws). Such lands are reserved for use by the Secretary
6 of the Navy for—

7 (A) use as a research, development, test, and
8 evaluation laboratory;

9 (B) use as a range for air warfare weapons and
10 weapon systems;

11 (C) use as a high hazard training area for aer-
12 ial gunnery, rocketry, electronic warfare and coun-
13 termeasures, tactical maneuvering and air support;
14 and

15 (D) subject to the requirements of section 4(f),
16 other defense-related purposes consistent with the
17 purposes specified in this paragraph.

18 (2) The lands referred to in paragraph (1) are the
19 Federal lands, located within the boundaries of the China
20 Lake Naval Weapons Center, comprising approximately
21 1,100,000 acres in Inyo, Kern, and San Bernardino Coun-
22 ties, California, as generally depicted on a map entitled
23 “China Lake Naval Weapons Center Withdrawal—Pro-
24 posed”, dated January 1985, and filed in accordance with
25 section 3.

1 (b) CHOCOLATE MOUNTAIN.—(1) Subject to valid ex-
2 isting rights and except as otherwise provided in this Act,
3 the Federal lands referred to in paragraph (2), and all
4 other areas within the boundary of such lands as depicted
5 on the map specified in such paragraph which may become
6 subject to the operation of the public land laws, are hereby
7 withdrawn from all forms of appropriation under the pub-
8 lic land laws (including the mining laws and the mineral
9 leasing and the geothermal leasing laws). Such lands are
10 reserved for use by the Secretary of the Navy for—

11 (A) testing and training for aerial bombing,
12 missile firing, tactical maneuvering and air support;
13 and

14 (B) subject to the provisions of section 4(f),
15 other defense-related purposes consistent with the
16 purposes specified in this paragraph.

17 (2) The lands referred to in paragraph (1) are the
18 Federal lands comprising approximately 226,711 acres in
19 Imperial County, California, as generally depicted on a
20 map entitled “Chocolate Mountain Aerial Gunnery Range
21 Proposed—Withdrawal” dated November 1991 and filed
22 in accordance with section 3.

1 **SEC. 3. MAPS AND LEGAL DESCRIPTIONS.**

2 (a) PUBLICATION AND FILING REQUIREMENT.—As
3 soon as practicable after the date of enactment of this Act,
4 the Secretary of the Interior shall—

5 (1) publish in the Federal Register a notice
6 containing the legal description of the lands with-
7 drawn and reserved by this Act; and

8 (2) file maps and the legal description of the
9 lands withdrawn and reserved by this Act with the
10 Committee on Energy and Natural Resources of the
11 United States Senate and with the Committee on
12 Natural Resources of the United States House of
13 Representatives.

14 (b) TECHNICAL CORRECTIONS.—Such maps and
15 legal descriptions shall have the same force and effect as
16 if they were included in this Act except that the Secretary
17 of the Interior may correct clerical and typographical er-
18 rors in such maps and legal descriptions.

19 (c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies
20 of such maps and legal descriptions shall be available for
21 public inspection in the Office of the Director of the Bu-
22 reau of Land Management, Washington, District of Co-
23 lumbia; the Office of the Director, California State Office
24 of the Bureau of Land Management, Sacramento, Califor-
25 nia; the office of the commander of the Naval Weapons
26 Center, China Lake, California; the office of the com-

1 manding officer, Marine Corps Air Station, Yuma, Ari-
2 zona; and the Office of the Secretary of Defense, Washing-
3 ton, District of Columbia.

4 (d) REIMBURSEMENT.—The Secretary of Defense
5 shall reimburse the Secretary of the Interior for the cost
6 of implementing this section.

7 **SEC. 4. MANAGEMENT OF WITHDRAWN LANDS.**

8 (a) MANAGEMENT BY THE SECRETARY OF THE INTE-
9 RIOR.—(1) Except as provided in subsection (g), during
10 the period of the withdrawal the Secretary of the Interior
11 shall manage the lands withdrawn under section 2 pursu-
12 ant to the Federal Land Policy and Management Act of
13 1976 (43 U.S.C. 1701 et seq.) and other applicable law,
14 including this Act.

15 (2) To the extent consistent with applicable law and
16 Executive orders, the lands withdrawn under section 2
17 may be managed in a manner permitting—

18 (A) the continuation of grazing pursuant to ap-
19 plicable law and Executive orders where permitted
20 on the date of enactment of this Act;

21 (B) protection of wildlife and wildlife habitat;

22 (C) control of predatory and other animals;

23 (D) recreation (but only on lands withdrawn by
24 section 2(a) (relating to China Lake));

1 (E) the prevention and appropriate suppression
2 of brush and range fires resulting from nonmilitary
3 activities; and

4 (F) geothermal leasing on the lands withdrawn
5 under section 2(a) (relating to China Lake).

6 (3)(A) All nonmilitary use of such lands, including
7 the uses described in paragraph (2), shall be subject to
8 such conditions and restrictions as may be necessary to
9 permit the military use of such lands for the purposes
10 specified in or authorized pursuant to this Act.

11 (B) The Secretary of the Interior may issue any
12 lease, easement, right-of-way, or other authorization with
13 respect to the nonmilitary use of such lands only with the
14 concurrence of the Secretary of the Navy.

15 (b) CLOSURE TO PUBLIC.—(1) If the Secretary of the
16 Navy determines that military operations, public safety,
17 or national security require the closure to public use of
18 any road, trail, or other portion of the lands withdrawn
19 by this Act, the Secretary may take such action as the
20 Secretary determines necessary or desirable to effect and
21 maintain such closure.

22 (2) Any such closure shall be limited to the minimum
23 areas and periods which the Secretary of the Navy deter-
24 mines are required to carry out this subsection.

1 (3) Before and during any closure under this sub-
2 section, the Secretary of the Navy shall—

3 (A) keep appropriate warning notices posted;
4 and

5 (B) take appropriate steps to notify the public
6 concerning such closures.

7 (c) MANAGEMENT PLAN.—The Secretary of the Inte-
8 rior (after consultation with the Secretary of the Navy)
9 shall develop a plan for the management of each area with-
10 drawn under section 2 during the period of such with-
11 drawal. Each plan shall—

12 (1) be consistent with applicable law;

13 (2) be subject to conditions and restrictions
14 specified in subsection (a)(3);

15 (3) include such provisions as may be necessary
16 for proper management and protection of the re-
17 sources and values of such area; and

18 (4) be developed not later than three years after
19 the date of enactment of this Act.

20 (d) BRUSH AND RANGE FIRES.—The Secretary of
21 the Navy shall take necessary precautions to prevent and
22 suppress brush and range fires occurring within and out-
23 side the lands withdrawn under section 2 as a result of
24 military activities and may seek assistance from the Bu-
25 reau of Land Management in the suppression of such

1 fires. The memorandum of understanding required by sub-
2 section (e) shall provide for Bureau of Land Management
3 assistance in the suppression of such fires, and for a
4 transfer of funds from the Department of the Navy to the
5 Bureau of Land Management as compensation for such
6 assistance.

7 (e) MEMORANDUM OF UNDERSTANDING.—(1) The
8 Secretary of the Interior and the Secretary of the Navy
9 shall (with respect to each land withdrawal under section
10 2) enter into a memorandum of understanding to imple-
11 ment the management plan developed under subsection
12 (c). Any such memorandum of understanding shall provide
13 that the Director of the Bureau of Land Management
14 shall provide assistance in the suppression of fires result-
15 ing from the military use of lands withdrawn under section
16 2 if requested by the Secretary of the Navy.

17 (2) The duration of any such memorandum shall be
18 the same as the period of the withdrawal of the lands
19 under section 2.

20 (f) ADDITIONAL MILITARY USES.—(1) Lands with-
21 drawn by section 2 may be used for defense-related uses
22 other than those specified in such section. The Secretary
23 of Defense shall promptly notify the Secretary of the Inte-
24 rior in the event that the lands withdrawn by this Act will
25 be used for defense-related purposes other than those

1 specified in section 2. Such notification shall indicate the
2 additional use or uses involved, the proposed duration of
3 such uses, and the extent to which such additional military
4 uses of the withdrawn lands will require that additional
5 or more stringent conditions or restrictions be imposed on
6 otherwise-permitted nonmilitary uses of the withdrawn
7 land or portions thereof.

8 (g) MANAGEMENT OF CHINA LAKE.—(1) The Sec-
9 retary of the Interior may assign the management respon-
10 sibility for the lands withdrawn under section 2(a) to the
11 Secretary of the Navy who shall manage such lands, and
12 issue leases, easements, rights-of-way, and other author-
13 izations, in accordance with this Act and cooperative man-
14 agement arrangements between the Secretary of the Inte-
15 rior and the Secretary of the Navy. In the case that the
16 Secretary of the Interior assigns such management re-
17 sponsibility to the Secretary of the Navy before the devel-
18 opment of the management plan under subsection (c), the
19 Secretary of the Navy (after consultation with the Sec-
20 retary of the Interior) shall develop such management
21 plan.

22 (2) The Secretary of the Interior shall be responsible
23 for the issuance of any lease, easement, right-of-way, and
24 other authorization with respect to any activity which in-
25 volves both the lands withdrawn under section 2(a) and

1 any other lands. Any such authorization shall be issued
2 only with the consent of the Secretary of the Navy and,
3 to the extent that such activity involves lands withdrawn
4 under section 2(a), shall be subject to such conditions as
5 the Secretary of the Navy may prescribe.

6 (3) The Secretary of the Navy shall prepare and sub-
7 mit to the Secretary of the Interior an annual report on
8 the status of the natural and cultural resources and values
9 of the lands withdrawn under section 2(a). The Secretary
10 of the Interior shall transmit such report to the Committee
11 on Natural Resources of the House of Representatives and
12 the Committee on Energy and Natural Resources of the
13 Senate.

14 (4) The Secretary of the Navy shall be responsible
15 for the management of wild horses and burros located on
16 the lands withdrawn under section 2(a) and may utilize
17 helicopters and motorized vehicles for such purposes. Such
18 management shall be in accordance with laws applicable
19 to such management on public lands and with an appro-
20 priate memorandum of understanding between the Sec-
21 retary of the Interior and the Secretary of the Navy.

22 (5) Neither this Act nor any other provision of law
23 shall be construed to prohibit the Secretary of the Interior
24 from issuing and administering any lease for the develop-
25 ment and utilization of geothermal steam and associated

1 geothermal resources on the lands withdrawn under sec-
2 tion 2(a) pursuant to the Geothermal Steam Act of 1970
3 (30 U.S.C. 1001 et seq.) and other applicable law, but
4 no such lease shall be issued without the concurrence of
5 the Secretary of the Navy.

6 (6) This Act shall not affect the geothermal explo-
7 ration and development authority of the Secretary of the
8 Navy under section 2689 of title 10, United States Code,
9 except that the Secretary of the Navy shall obtain the con-
10 currence of the Secretary of the Interior before taking ac-
11 tion under that section with respect to the lands with-
12 drawn under section 2(a).

13 **SEC. 5. DURATION OF WITHDRAWALS.**

14 (a) DURATION.—The withdrawal and reservation es-
15 tablished by this Act shall terminate 15 years after the
16 date of enactment of this Act.

17 (b) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—
18 No later than 12 years after the date of enactment of this
19 Act, the Secretary of the Navy shall publish a draft envi-
20 ronmental impact statement concerning continued or re-
21 newed withdrawal of any portion of the lands withdrawn
22 by this Act for which that Secretary intends to seek such
23 continued or renewed withdrawal. Such draft environ-
24 mental impact statement shall be consistent with the re-
25 quirements of the National Environmental Policy Act of

1 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft
2 environmental impact statement. Prior to the termination
3 date specified in subsection (a), the Secretary of the Navy
4 shall hold a public hearing on any draft environmental im-
5 pact statement published pursuant to this subsection.
6 Such hearing shall be held in the State of California in
7 order to receive public comments on the alternatives and
8 other matters included in such draft environmental impact
9 statement.

10 (c) EXTENSIONS OR RENEWALS.—The withdrawals
11 established by this Act may not be extended or renewed
12 except by an Act or joint resolution.

13 **SEC. 6. ONGOING DECONTAMINATION.**

14 (a) PROGRAM.—Throughout the duration of the with-
15 draws made by this Act, the Secretary of the Navy, to
16 the extent funds are made available, shall maintain a pro-
17 gram of decontamination of lands withdrawn by this Act
18 at least at the level of decontamination activities per-
19 formed on such lands in fiscal year 1986.

20 (b) REPORTS.—At the same time as the President
21 transmits to the Congress the President's proposed budget
22 for the first fiscal year beginning after the date of enact-
23 ment of this Act and for each subsequent fiscal year, the
24 Secretary of the Navy shall transmit to the Committees
25 on Appropriations, Armed Services, and Energy and Nat-

1 ural Resources of the Senate and to the Committees on
2 Appropriations, Armed Services, and Natural Resources
3 of the House of Representatives a description of the de-
4 contamination efforts undertaken during the previous fis-
5 cal year on such lands and the decontamination activities
6 proposed for such lands during the next fiscal year
7 including:

8 (1) amounts appropriated and obligated or ex-
9 pended for decontamination of such lands;

10 (2) the methods used to decontaminate such
11 lands;

12 (3) amount and types of contaminants removed
13 from such lands;

14 (4) estimated types and amounts of residual
15 contamination on such lands; and

16 (5) an estimate of the costs for full decon-
17 tamination of such lands and the estimate of the
18 time to complete such decontamination.

19 **SEC. 7. REQUIREMENTS FOR RENEWAL.**

20 (a) NOTICE AND FILING.—(1) No later than three
21 years prior to the termination of the withdrawal and res-
22 ervation established by this Act, the Secretary of the Navy
23 shall advise the Secretary of the Interior as to whether
24 or not the Secretary of the Navy will have a continuing
25 military need for any of the lands withdrawn under section

1 2 after the termination date of such withdrawal and res-
2 ervation.

3 (2) If the Secretary of the Navy concludes that there
4 will be a continuing military need for any of such lands
5 after the termination date, the Secretary shall file an ap-
6 plication for extension of the withdrawal and reservation
7 of such needed lands in accordance with the regulations
8 and procedures of the Department of the Interior applica-
9 ble to the extension of withdrawals of lands for military
10 uses.

11 (3) If, during the period of withdrawal and reserva-
12 tion, the Secretary of the Navy decides to relinquish all
13 or any of the lands withdrawn and reserved by this Act,
14 the Secretary shall file a notice of intention to relinquish
15 with the Secretary of the Interior.

16 (b) CONTAMINATION.—(1) Before transmitting a no-
17 tice of intention to relinquish pursuant to subsection (a),
18 the Secretary of Defense, acting through the Department
19 of Navy, shall prepare a written determination concerning
20 whether and to what extent the lands that are to be relin-
21 quished are contaminated with explosive, toxic, or other
22 hazardous materials.

23 (2) A copy of such determination shall be transmitted
24 with the notice of intention to relinquish.

1 (3) Copies of both the notice of intention to relinquish
2 and the determination concerning the contaminated state
3 of the lands shall be published in the Federal Register by
4 the Secretary of the Interior.

5 (c) DECONTAMINATION.—If any land which is the
6 subject of a notice of intention to relinquish pursuant to
7 subsection (a) is contaminated, and the Secretary of the
8 Interior, in consultation with the Secretary of the Navy,
9 determines that decontamination is practicable and eco-
10 nomically feasible (taking into consideration the potential
11 future use and value of the land) and that upon decon-
12 tamination, the land could be opened to operation of some
13 or all of the public land laws, including the mining laws,
14 the Secretary of the Navy shall decontaminate the land
15 to the extent that funds are appropriated for such
16 purpose.

17 (d) ALTERNATIVES.—If the Secretary of the Interior,
18 after consultation with the Secretary of the Navy, con-
19 cludes that decontamination of any land which is the sub-
20 ject of a notice of intention to relinquish pursuant to sub-
21 section (a) is not practicable or economically feasible, or
22 that the land cannot be decontaminated sufficiently to be
23 opened to operation of some or all of the public land laws,
24 or if Congress does not appropriate a sufficient amount
25 of funds for the decontamination of such land, the Sec-

1 reitary of the Interior shall not be required to accept the
2 land proposed for relinquishment.

3 (e) STATUS OF CONTAMINATED LANDS.—If, because
4 of their contaminated state, the Secretary of the Interior
5 declines to accept jurisdiction over lands withdrawn by
6 this Act which have been proposed for relinquishment, or
7 if at the expiration of the withdrawal made by this Act
8 the Secretary of the Interior determines that some of the
9 lands withdrawn by this Act are contaminated to an extent
10 which prevents opening such contaminated lands to oper-
11 ation of the public land laws—

12 (1) the Secretary of the Navy shall take appro-
13 priate steps to warn the public of the contaminated
14 state of such lands and any risks associated with
15 entry onto such lands;

16 (2) after the expiration of the withdrawal, the
17 Secretary of the Navy shall undertake no activities
18 on such lands except in connection with decon-
19 tamination of such lands; and

20 (3) the Secretary of the Navy shall report to
21 the Secretary of the Interior and to the Congress
22 concerning the status of such lands and all actions
23 taken in furtherance of this subsection.

24 (f) REVOCATION AUTHORITY.—Notwithstanding any
25 other provision of law, the Secretary of the Interior, upon

1 deciding that it is in the public interest to accept jurisdic-
2 tion over lands proposed for relinquishment pursuant to
3 subsection (a), is authorized to revoke the withdrawal and
4 reservation established by this Act as it applies to such
5 lands. Should the decision be made to revoke the with-
6 drawal and reservation, the Secretary of the Interior shall
7 publish in the Federal Register an appropriate order
8 which shall—

9 (1) terminate the withdrawal and reservation;

10 (2) constitute official acceptance of full jurisdic-
11 tion over the lands by the Secretary of the Interior;
12 and

13 (3) state the date upon which the lands will be
14 opened to the operation of some or all of the public
15 lands laws, including the mining laws.

16 **SEC. 8. DELEGABILITY.**

17 (a) DEFENSE.—The functions of the Secretary of De-
18 fense or the Secretary of the Navy under this Act may
19 be delegated.

20 (b) INTERIOR.—The functions of the Secretary of the
21 Interior under this Act may be delegated, except that an
22 order described in section 7(f) may be approved and
23 signed only by the Secretary of the Interior, the Under
24 Secretary of the Interior, or an Assistant Secretary of the
25 Department of the Interior.

1 **SEC. 9. HUNTING, FISHING, AND TRAPPING.**

2 All hunting, fishing, and trapping on the lands with-
3 drawn by this Act shall be conducted in accordance with
4 the provisions of section 2671 of title 10, United States
5 Code.

6 **SEC. 10. IMMUNITY OF UNITED STATES.**

7 The United States and all departments or agencies
8 thereof shall be held harmless and shall not be liable for
9 any injury or damage to persons or property suffered in
10 the course of any geothermal leasing or other authorized
11 nonmilitary activity conducted on lands described in sec-
12 tion 2 of this Act.

13 **SEC. 11. EL CENTRO RANGES.**

14 The Secretary of the Interior is authorized to permit
15 the Secretary of the Navy to use until January 1, 1994,
16 the approximately 44,870 acres of public lands in Imperial
17 County, California, known as the East Mesa and West
18 Mesa ranges, in accordance with the Memorandum of Un-
19 derstanding dated June 29, 1987, between the Bureau of
20 Land Management, the Bureau of Reclamation, and the
21 Department of the Navy. Such use shall be consistent with
22 such Memorandum of Understanding and such additional
23 terms and conditions as the Secretary of the Interior may
24 require in order to protect the natural, scientific, environ-
25 mental, cultural, and other resources and values of such
26 lands and to minimize the extent to which use of such

1 lands for military purposes impedes or restricts use of
2 such or other public lands for other purposes. All military
3 uses of such lands shall cease on January 1, 1994, unless
4 authorized by subsequent Act of Congress.

5 **SEC. 12. MILITARY OVERFLIGHTS.**

6 (a) **DISCLAIMER.**—Nothing in this Act or the Califor-
7 nia Desert Protection Act of 1993 shall preclude low-level
8 overflights by military aircraft, the designation of new
9 units of special airspace, or the use or establishment of
10 military flight training routes over the new units of the
11 National Park or National Wilderness Preservation Sys-
12 tems (or any additions to existing units of such Systems)
13 designated by this Act or the California Desert Protection
14 Act of 1993.

15 (b) **MONITORING.**—The Secretary of the Interior
16 shall monitor the effects of aircraft overflights on the re-
17 sources and values of the units of the National Park Sys-
18 tem and National Wilderness Preservation System des-
19 igned or expanded by this Act or the California Desert
20 Protection Act of 1993, and on visitor enjoyment of such
21 units. The Secretary of the Interior shall actively seek the
22 assistance of the Secretary of Defense, consistent with na-
23 tional security needs, to resolve concerns related to such
24 overflights and to prevent, eliminate, or minimize the dero-

- 1 gation of resources and values and of visitor enjoyment
- 2 associated with overflight activities.

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