

103D CONGRESS
1ST SESSION

S. 492

To provide for the protection of the Bodie Bowl area of the State of California, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 3, 1993

Mrs. FEINSTEIN (for herself and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for the protection of the Bodie Bowl area of the State of California, 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 “Bodie Protection Act
5 of 1993”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) the historic Bodie gold mining district in
9 the State of California is the site of the largest and

1 best preserved authentic ghost town in the western
2 United States;

3 (2) the Bodie Bowl area contains important
4 natural, historical, and aesthetic resources;

5 (3) Bodie was designated a National Historical
6 Landmark in 1961 and a California State Historic
7 Park in 1962, is listed on the National Register of
8 Historic Places, and is included in the Federal His-
9 toric American Buildings Survey;

10 (4) nearly 200,000 persons visit Bodie each
11 year, providing the local economy with important an-
12 nual tourism revenues;

13 (5) the town of Bodie is threatened by propos-
14 als to explore and extract minerals: mining in the
15 Bodie Bowl area may have adverse physical and aes-
16 thetic impacts on Bodie's historical integrity, cul-
17 tural values, and ghost town character as well as on
18 its recreational values and the area's flora and
19 fauna;

20 (6) the California State Legislature, on Septem-
21 ber 4, 1990, requested the President and the Con-
22 gress to direct the Secretary of the Interior to pro-
23 tect the ghost town character, ambience, historic
24 buildings, and scenic attributes of the town of Bodie
25 and nearby areas;

1 (7) the California State Legislature also re-
2 requested the Secretary, if necessary to protect the
3 Bodie Bowl area, to withdraw the Federal lands
4 within the area from all forms of mineral entry and
5 patent;

6 (8) the National Park Service listed Bodie as a
7 priority one endangered National Historic Landmark
8 in its fiscal year 1990 and 1991 report to Congress
9 entitled “Threatened and Damaged National His-
10 toric Landmarks” and recommended protection of
11 the Bodie area; and

12 (9) it is necessary and appropriate to provide
13 that all Federal lands within the Bodie Bowl area
14 are not subject to location, entry, and patent under
15 the mining laws of the United States, subject to
16 valid existing rights, and to direct the Secretary to
17 consult with the Governor of the State of California
18 before approving any mining activity plan within the
19 Bodie Bowl.

20 **SEC. 3. DEFINITIONS.**

21 For purposes of this Act:

22 (1) The term “Bodie Bowl” means the Federal
23 lands and interests in lands within the area gen-
24 erally depicted on the map referred to in section
25 4(a).

1 (2) The term “mining” means any activity in-
2 volving mineral prospecting, exploration, extraction,
3 milling, beneficiation, processing, and reclamation.

4 (3) The term “Secretary” means the Secretary
5 of the Interior.

6 **SEC. 4. APPLICABILITY OF MINERAL MINING, LEASING AND**
7 **DISPOSAL LAWS.**

8 (a) RESTRICTION.—Subject to valid existing rights,
9 after the date of enactment of this Act Federal lands and
10 interests in lands within the area generally depicted on
11 the map entitled “Bodie Bowl” and dated June 12, 1992,
12 shall not be—

13 (1) open to the location of mining and mill site
14 claims under the general mining laws of the United
15 States;

16 (2) subject to any lease under the Mineral
17 Leasing Act (30 U.S.C. 181 and following) or the
18 Geothermal Steam Act of 1970 (30 U.S.C. 100 and
19 following), for lands within the Bodie Bowl; and

20 (3) available for disposal of mineral materials
21 under the Act of July 31, 1947, commonly known as
22 the Materials Act of 1947 (30 U.S.C. 601 and
23 following).

24 Such map shall be on file and available for public inspec-
25 tion in the Office of the Secretary, and appropriate offices

1 of the Bureau of Land Management and the National
2 Park Service. As soon as practicable after the date of en-
3 actment of this Act, the Secretary shall publish a legal
4 description of the Bodie Bowl area in the Federal
5 Register.

6 (b) VALID EXISTING RIGHTS.—As used in this sub-
7 section, the term “valid existing rights” in reference to
8 the general mining laws means that a mining claim located
9 on lands within the Bodie Bowl was properly located and
10 maintained under the general mining laws prior to the
11 date of enactment of this Act, was supported by a discov-
12 ery of a valuable mineral deposit within the meaning of
13 the general mining laws on the date of enactment of this
14 Act, and that such claim continues to be valid.

15 (c) VALIDITY REVIEW.—The Secretary shall under-
16 take an expedited program to determine the validity of all
17 unpatented mining claims located within the Bodie Bowl.
18 The expedited program shall include an examination of all
19 unpatented mining claims, including those for which a pat-
20 ent application has not been filed. If a claim is determined
21 to be invalid, the Secretary shall promptly declare the
22 claim to be null and void, except that the Secretary shall
23 not challenge the validity of any claim located within the
24 Bodie Bowl for the failure to do assessment work for any
25 period after the date of enactment of this Act. The Sec-

1 retary shall make a determination with respect to the va-
2 lidity of each claim referred to under this subsection with-
3 in 2 years after the date of enactment of this Act.

4 (d) LIMITATION ON PATENT ISSUANCE.—

5 (1) MINING CLAIMS.—(A) After March 8, 1992,
6 no patent shall be issued by the United States for
7 any mining claim located under the general mining
8 laws within the Bodie Bowl unless the Secretary
9 determines that, for the claim concerned—

10 (i) a patent application was filed with the
11 Secretary on or before such date; and

12 (ii) all requirements established under sec-
13 tions 2325 and 2326 of the Revised Statutes
14 (30 U.S.C. 29 and 30) for vein or lode claims
15 and sections 2329, 2330, 2331, and 2333 of
16 the Revised Statutes (30 U.S.C. 35, 36, 37) for
17 placer claims were fully complied with by that
18 date.

19 (B) If the Secretary makes the determinations
20 referred to in subparagraph (A) for any mining
21 claim, the holder of the claim shall be entitled to the
22 issuance of a patent in the same manner and degree
23 to which such claim holder would have been entitled
24 to prior to the enactment of this Act, unless and
25 until such determinations are withdrawn or invali-

1 dated by the Secretary or by a court of the United
2 States.

3 (2) MILL SITE CLAIMS.—(A) After March 8,
4 1992, no patent shall be issued by the United States
5 for any mill site claim located under the general
6 mining laws within the Bodie Bowl unless the Sec-
7 retary determines that, for the claim concerned—

8 (i) a patent application was filed with the
9 Secretary on or before March 8, 1992; and

10 (ii) all requirements applicable to such pat-
11 ent application were fully complied with by that
12 date.

13 (B) If the Secretary makes the determinations
14 referred to in subparagraph (A) for any mill site
15 claim, the holder of the claim shall be entitled to the
16 issuance of a patent in the same manner and degree
17 to which such claim holder would have been entitled
18 to prior to the enactment of this Act, unless and
19 until such determinations are withdrawn or invali-
20 dated by the Secretary or by a court of the United
21 States.

22 **SEC. 5. MINERAL ACTIVITIES.**

23 (a) IN GENERAL.—Mineral exploration, mining,
24 beneficiation, and processing activities on unpatented min-
25 ing claims within the Bodie Bowl shall be subject to such

1 regulations prescribed by the Secretary, in consultation
2 with the Governor of the State of California, as the
3 Secretary deems necessary to ensure that such mineral
4 activities are conducted—

5 (1) in accordance with the rules and regulations
6 promulgated under Public Law 94–429 (16 U.S.C.
7 1901 et seq.) as they relate to plan of operations,
8 reclamation requirements, and bonding; and

9 (2) in a manner that does not cause any ad-
10 verse effect on the historic, cultural, recreational and
11 natural resource values of the Bodie Bowl area.

12 (b) RESTORATION OF EFFECTS OF MINING EXPLO-
13 RATION.—As soon as possible after the date of enactment
14 of this Act, visible evidence or other effects of mining ex-
15 ploration activity within the Bodie Bowl conducted on or
16 after September 1, 1988, shall be reclaimed by the opera-
17 tor in accordance with regulations prescribed pursuant to
18 subsection (a).

19 (c) ANNUAL EXPENDITURES; FILING.—The require-
20 ments for annual expenditures on unpatented mining
21 claims imposed by Revised Statute 2324 (30 U.S.C. 28)
22 shall not apply to any such claim located within the Bodie
23 Bowl. In lieu of filing the affidavit of assessment work
24 referred to under section 314(a)(1) of the Federal Land
25 Policy and Management Act of 1976 (43 U.S.C.

1 1744(a)(1)), the holder of any unpatented mining or mill
2 site claim located within the Bodie Bowl shall only be re-
3 quired to file the notice of intention to hold the mining
4 claim referred to in such section 314(a)(1).

5 (d) REGULATIONS.—The Secretary shall promulgate
6 the regulations referred to in this section within 90 days
7 after the date of enactment of this Act. For the purposes
8 of this Act, the Bureau of Land Management shall pro-
9 mulgate and administer the rules and regulations referred
10 to in section 5(a).

11 **SEC. 6. STUDY.**

12 Beginning as soon as possible after the date of enact-
13 ment of this Act, the Secretary of the Interior, through
14 the Director of the National Park Service, shall review
15 possible actions to preserve the scenic character, historical
16 integrity, cultural and recreational values, flora and fauna,
17 and ghost town characteristics of lands and structures
18 within the Bodie Bowl. No later than 3 years after the
19 date of such enactment, the Secretary shall submit to the
20 Committee on Interior and Insular Affairs of the United
21 States House of Representatives and the Committee on
22 Energy and Natural Resources of the United States Sen-
23 ate a report that discusses the results of such review and
24 makes recommendations as to which steps (including but

- 1 not limited to acquisition of lands or valid mining claims)
- 2 should be undertaken in order to achieve these objectives.

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