

104TH CONGRESS
1ST SESSION

H. R. 256

To withdraw and reserve certain public lands and minerals within the State of Colorado for military uses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1995

Mr. HEFLEY introduced the following bill; which was referred to the Committee on National Security and, in addition, to the Committee on Resources, 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 withdraw and reserve certain public lands and minerals within the State of Colorado for military uses, 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 TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Fort Carson-Pinon Canyon Military Lands Withdrawal
6 Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Withdrawal and reservation of lands at Fort Carson Military Reservation.
- Sec. 3. Withdrawal and reservation of lands at Pinon Canyon Maneuver Site.
- Sec. 4. Maps and legal descriptions.
- Sec. 5. Management of withdrawn lands.
- Sec. 6. Management of withdrawn and acquired mineral resources.
- Sec. 7. Hunting, fishing, and trapping.
- Sec. 8. Termination of withdrawal and reservation.
- Sec. 9. Determination of presence of contamination and effect of contamination.
- Sec. 10. Delegation.
- Sec. 11. Hold harmless.
- Sec. 12. Amendment to Military Lands Withdrawal Act of 1986.
- Sec. 13. Authorization of appropriations.

1 **SEC. 2. WITHDRAWAL AND RESERVATION OF LANDS AT**
 2 **FORT CARSON MILITARY RESERVATION.**

3 (a) WITHDRAWAL.—Subject to valid existing rights
 4 and except as otherwise provided in this Act, the lands
 5 at the Fort Carson Military Reservation, Colorado, that
 6 are described in subsection (c) are hereby withdrawn from
 7 all forms of appropriation under the public land laws, in-
 8 cluding the mining laws, the mineral and geothermal leas-
 9 ing laws, and the mineral materials disposal laws.

10 (b) RESERVATION.—The lands withdrawn under sub-
 11 section (a) are reserved for use by the Secretary of the
 12 Army—

13 (1) for military maneuvering, training and
 14 weapons firing; and

15 (2) for other defense related purposes consist-
 16 ent with the uses specified in paragraph (1).

17 (c) LAND DESCRIPTION.—The lands referred to in
 18 subsection (a) comprise 3,133.02 acres of public land and

1 11,415.16 acres of federally-owned minerals in El Paso,
2 Pueblo, and Fremont Counties, Colorado, as generally de-
3 picted on the map entitled “Fort Carson Proposed With-
4 drawal—Fort Carson Base”, dated February 6, 1992, and
5 published in accordance with section 4.

6 **SEC. 3. WITHDRAWAL AND RESERVATION OF LANDS AT**
7 **PINON CANYON MANEUVER SITE.**

8 (a) WITHDRAWAL.—Subject to valid existing rights
9 and except as otherwise provided in this Act, the lands
10 at the Pinon Canyon Maneuver Site, Colorado, that are
11 described in subsection (c) are hereby withdrawn from all
12 forms of appropriation under the public land laws, includ-
13 ing the mining laws, the mineral and geothermal leasing
14 laws, and the mineral materials disposal laws.

15 (b) RESERVATION.—The lands withdrawn under sub-
16 section (a) are reserved for use by the Secretary of the
17 Army—

18 (1) for military maneuvering and training; and
19 (2) for other defense related purposes consist-
20 ent with the uses specified in paragraph (1).

21 (c) LAND DESCRIPTION.—The lands referred to in
22 subsection (a) comprise 2,517.12 acres of public lands and
23 130,139 acres of federally-owned minerals in Las Animas
24 County, Colorado, as generally depicted on the map enti-
25 tled “Fort Carson Proposed Withdrawal—Fort Carson

1 Maneuver Area—Pinon Canyon site”, dated February 6,
2 1992, and published in accordance with section 4.

3 **SEC. 4. MAPS AND LEGAL DESCRIPTIONS.**

4 (a) PREPARATION OF MAPS AND LEGAL DESCRIP-
5 TION.—As soon as practicable after the date of the enact-
6 ment of this Act, the Secretary of the Interior shall pre-
7 pare maps depicting the lands withdrawn and reserved by
8 this Act and publish in the Federal Register a notice con-
9 taining the legal description of such lands.

10 (b) LEGAL EFFECT.—Such maps and legal descrip-
11 tions shall have the same force and effect as if they were
12 included in this Act, except that the Secretary of the Inte-
13 rior may correct clerical and typographical errors in such
14 maps and legal descriptions.

15 (c) AVAILABILITY OF MAPS AND LEGAL DESCRIP-
16 TION.—Copies of such maps and legal descriptions shall
17 be available for public inspection in the offices of the Colo-
18 rado State Director and the Canon City District Manager
19 of the Bureau of Land Management and in the offices of
20 the Commander of Fort Carson, Colorado.

21 (d) COSTS.—The Secretary of the Army shall reim-
22 burse the Secretary of the Interior for the costs of imple-
23 menting this section.

24 **SEC. 5. MANAGEMENT OF WITHDRAWN LANDS.**

25 (a) MANAGEMENT GUIDELINES.—

1 (1) MANAGEMENT BY SECRETARY OF THE
2 ARMY.—Except as provided in section 6, during the
3 period of withdrawal, the Secretary of the Army
4 shall manage for military purposes the lands covered
5 by this Act and may authorize use of the lands by
6 the other military departments and agencies of the
7 Department of Defense, and the National Guard, as
8 appropriate.

9 (2) ACCESS RESTRICTIONS.—When military op-
10 erations, public safety, or national security, as deter-
11 mined by the Secretary of the Army, require the clo-
12 sure of roads and trails on the lands withdrawn by
13 this Act commonly in public use, the Secretary of
14 the Army is authorized to take such action, except
15 that such closures shall be limited to the minimum
16 areas and periods required for the purposes specified
17 in this subsection. Appropriate warning notices shall
18 be kept posted during closures.

19 (3) SUPPRESSION OF FIRES.—The Secretary of
20 the Army shall take necessary precautions to prevent
21 and suppress brush and range fires occurring within
22 and outside the lands as a result of military activi-
23 ties and may seek assistance from the Bureau of
24 Land Management in suppressing such fires. The
25 memorandum of understanding required by this sec-

1 tion shall provide for Bureau of Land Management
2 assistance in the suppression of such fires, and for
3 a transfer of funds from the Department of the
4 Army to the Bureau of Land Management as com-
5 pensation for such assistance.

6 (b) MANAGEMENT PLAN.—

7 (1) DEVELOPMENT REQUIRED.—The Secretary
8 of the Army, with the concurrence of the Secretary
9 of the Interior, shall develop a plan for the manage-
10 ment of acquired lands and lands withdrawn under
11 sections 2 and 3 for the period of withdrawal. The
12 plan shall—

13 (A) be consistent with applicable law;

14 (B) include such provisions as may be nec-
15 essary for proper resource management and
16 protection of the natural, cultural, and other re-
17 sources and values of such lands; and

18 (C) identify those withdrawn and acquired
19 lands, if any, which are to be open to mining
20 or mineral and geothermal leasing, including
21 mineral materials disposal.

22 (2) TIME FOR DEVELOPMENT.—The manage-
23 ment plan required by this subsection shall be devel-
24 oped not later than 5 years after the date of the en-
25 actment of this Act.

1 (c) IMPLEMENTATION OF MANAGEMENT PLAN.—

2 (1) MEMORANDUM OF UNDERSTANDING RE-
3 QUIRED.—The Secretary of the Army and the Sec-
4 retary of the Interior shall enter into a memoran-
5 dum of understanding to implement the manage-
6 ment plan developed under subsection (b).

7 (2) DURATION.—The duration of any such
8 memorandum of understanding shall be the same as
9 the period of withdrawal specified in section 8(a).

10 (3) AMENDMENT.—The memorandum of under-
11 standing may be amended by agreement of both Sec-
12 retaries.

13 (d) USE OF CERTAIN RESOURCES.—The Secretary of
14 the Army is authorized to utilize sand, gravel, or similar
15 mineral or mineral material resources from the lands with-
16 drawn by this Act when the use of such resources is re-
17 quired for construction needs of the Fort Carson Reserva-
18 tion or Pinon Canyon Maneuver Site.

19 **SEC. 6. MANAGEMENT OF WITHDRAWN AND ACQUIRED**
20 **MINERAL RESOURCES.**

21 Except as provided in section 5(d), the Secretary of
22 the Interior shall manage all withdrawn and acquired min-
23 eral resources within the boundaries of the Fort Carson
24 Military Reservation and Pinon Canyon Maneuver Site in
25 the same manner as provided in section 12 of the Military

1 Lands Withdrawal Act of 1986 (Public Law 99–606; 100
2 Stat. 3466) for mining and mineral leasing on certain
3 lands withdrawn by that Act from all forms of appropria-
4 tion under the public land laws.

5 **SEC. 7. HUNTING, FISHING, AND TRAPPING.**

6 All hunting, fishing, and trapping on the lands with-
7 drawn and reserved by this Act shall be conducted in ac-
8 cordance with section 2671 of title 10, United States
9 Code.

10 **SEC. 8. TERMINATION OF WITHDRAWAL AND RESERVA-**
11 **TION.**

12 (a) **TERMINATION DATE.**—The withdrawal and res-
13 ervation made by this Act shall terminate 15 years after
14 the date of the enactment of this Act.

15 (b) **DETERMINATION OF CONTINUING MILITARY**
16 **NEED.**—

17 (1) **DETERMINATION REQUIRED.**—At least
18 three years before the termination under subsection
19 (a) of the withdrawal and reservation established by
20 this Act, the Secretary of the Army shall advise the
21 Secretary of the Interior as to whether or not the
22 Department of the Army will have a continuing mili-
23 tary need for any of the lands after the termination
24 date.

1 (2) METHOD OF MAKING DETERMINATION.—If
2 the Secretary of the Army concludes under para-
3 graph (1) that there will be a continuing military
4 need for any of the lands after the termination date
5 established by subsection (a), the Secretary of the
6 Army, in accordance with applicable law, shall—

7 (A) evaluate the environmental effects of
8 renewal of such withdrawal and reservation;

9 (B) hold at least one public hearing in Col-
10 orado concerning such evaluation; and

11 (C) file, after completing the requirements
12 of subparagraphs (A) and (B), an application
13 for extension of the withdrawal and reservation
14 of such lands in accordance with the regulations
15 and procedures of the Department of the Inte-
16 rior applicable to the extension of withdrawals
17 for military uses.

18 (3) NOTIFICATION.—The Secretary of the Inte-
19 rior shall notify the Congress concerning a filing
20 under paragraph (3)(C).

21 (c) EARLY RELINQUISHMENT OF WITHDRAWAL.—If
22 the Secretary of the Army concludes under subsection (b)
23 that before the termination date established by subsection
24 (a) there will be no military need for all or any part of
25 the lands withdrawn and reserved by this Act, or if, during

1 the period of withdrawal, the Secretary of the Army other-
2 wise decides to relinquish any or all of the lands with-
3 drawn and reserved under this Act, the Secretary of the
4 Army shall file with the Secretary of the Interior a notice
5 of intention to relinquish such lands.

6 (d) ACCEPTANCE OF LANDS PROPOSED FOR RELIN-
7 QUISHMENT.—Notwithstanding any other provision of
8 law, the Secretary of the Interior, upon deciding that it
9 is in the public interest to accept jurisdiction over the
10 lands proposed for relinquishment, may revoke the with-
11 drawal and reservation established by this Act as it applies
12 to the lands proposed for relinquishment. Should the deci-
13 sion be made to revoke the withdrawal and reservation,
14 the Secretary of the Interior shall publish in the Federal
15 Register an appropriate order which shall—

- 16 (1) terminate the withdrawal and reservation;
- 17 (2) constitute official acceptance of full jurisdic-
18 tion over the lands by the Secretary of the Interior;
- 19 and
- 20 (3) state the date upon which the lands will be
21 opened to the operation of the public land laws, in-
22 cluding the mining laws if appropriate.

1 **SEC. 9. DETERMINATION OF PRESENCE OF CONTAMINA-**
2 **TION AND EFFECT OF CONTAMINATION.**

3 (a) DETERMINATION OF PRESENCE OF CONTAMINA-
4 TION.—

5 (1) BEFORE RELINQUISHMENT NOTICE.—Be-
6 fore filing a relinquishment notice under section
7 8(c), the Secretary of the Army shall prepare a writ-
8 ten determination as to whether and to what extent
9 the lands to be relinquished are contaminated with
10 explosive, toxic, or other hazardous materials. A
11 copy of the determination made by the Secretary of
12 the Army shall be supplied with the relinquishment
13 notice. Copies of both the relinquishment notice and
14 the determination under this subsection shall be
15 published in the Federal Register by the Secretary
16 of the Interior.

17 (2) UPON TERMINATION OF WITHDRAWAL.—At
18 the expiration of the withdrawal period made by this
19 Act, the Secretary of the Interior shall determine
20 whether and to what extent the lands withdrawn by
21 this Act are contaminated to an extent which pre-
22 vents opening such contaminated lands to operation
23 of the public land laws.

24 (b) PROGRAM OF DECONTAMINATION.—

25 (1) IN GENERAL.—Throughout the duration of
26 the withdrawal and reservation made by this Act,

1 the Secretary of the Army, to the extent funds are
2 made available, shall maintain a program of decon-
3 tamination of the lands withdrawn by this Act at
4 least at the level of effort carried out during fiscal
5 year 1992.

6 (2) DECONTAMINATION OF LANDS TO BE RE-
7 LINQUISHED.—In the case of lands subject to a re-
8 linquishment notice under section 8(c) that are con-
9 taminated, the Secretary of the Army shall decon-
10 taminated the land to the extent that funds are ap-
11 propriated for such purpose if the Secretary of the
12 Interior, in consultation with the Secretary of the
13 Army, determines that—

14 (A) decontamination of the lands is prac-
15 ticable and economically feasible, taking into
16 consideration the potential future use and value
17 of the land; and

18 (B) upon decontamination, the land could
19 be opened to the operation of some or all of the
20 public land laws, including the mining laws.

21 (c) AUTHORITY OF SECRETARY OF THE INTERIOR TO
22 REFUSE CONTAMINATED LANDS.—The Secretary of the
23 Interior shall not be required to accept lands proposed for
24 relinquishment if the Secretary of the Army and the Sec-
25 retary of the Interior conclude that—

1 (1) decontamination of any or all of the lands
2 proposed for relinquishment is not practicable or
3 economically feasible;

4 (2) the lands cannot be decontaminated suffi-
5 ciently to allow them to be opened to the operation
6 of the public land laws; or

7 (3) insufficient funds are appropriated for the
8 purpose of decontaminating the lands.

9 (d) EFFECT OF CONTINUED CONTAMINATION.—If
10 the Secretary of the Interior declines under subsection (c)
11 to accept jurisdiction of lands proposed for relinquishment
12 or if the Secretary of the Interior determines under sub-
13 section (a)(2) that some of the lands withdrawn by this
14 Act are contaminated to an extent that prevents opening
15 the contaminated lands to operation of the public land
16 laws—

17 (1) the Secretary of the Army shall take appro-
18 priate steps to warn the public of the contaminated
19 state of such lands and any risks associated with
20 entry onto such lands;

21 (2) after the expiration of the withdrawal, the
22 Secretary of the Army shall undertake no activities
23 on such lands except in connection with decon-
24 tamination of such lands; and

1 (3) the Secretary of the Army shall report to
2 the Secretary of the Interior and to the Congress
3 concerning the status of such lands and all actions
4 taken under paragraphs (1) and (2).

5 (e) EFFECT OF SUBSEQUENT DECONTAMINATION.—
6 If the lands described in subsection (d) are subsequently
7 decontaminated, upon certification by the Secretary of the
8 Army that the lands are safe for all nonmilitary uses, the
9 Secretary of the Interior shall reconsider accepting juris-
10 diction over the lands.

11 (f) EFFECT ON OTHER LAWS.—Nothing in this Act
12 shall affect, or be construed to affect, the obligations of
13 the Secretary of the Army, if any, to decontaminate lands
14 withdrawn by this Act pursuant to applicable law, includ-
15 ing the Comprehensive Environmental Response Com-
16 pensation and Liability Act of 1980 (42 U.S.C. 9601 et
17 seq.) and the Solid Waste Disposal Act (42 U.S.C. 6901
18 et seq.).

19 **SEC. 10. DELEGATION.**

20 The functions of the Secretary of the Army under
21 this Act may be delegated. The functions of the Secretary
22 of the Interior under this Act may be delegated, except
23 that the order referred to in section 8(d) may be approved
24 and signed only by the Secretary of the Interior, the Dep-

1 uly Secretary of the Interior, or an Assistant Secretary
2 of the Department of the Interior.

3 **SEC. 11. HOLD HARMLESS.**

4 (a) IN GENERAL.—The United States shall be held
5 harmless and shall not be liable for any injuries or dam-
6 ages to persons or property suffered in the course of any
7 mining, mineral activity, or geothermal leasing activity
8 conducted on lands comprising the Fort Carson Reserva-
9 tion or Pinon Canyon Maneuver Site, including liabilities
10 to non-Federal entities under section 107 or 113 of the
11 Comprehensive Environmental Response Compensation
12 and Liability Act of 1980 (42 U.S.C. 9607, 9613), or sec-
13 tion 7003 of the Solid Waste Disposal Act (42 U.S.C.
14 6973).

15 (b) INDEMNIFICATION.—Any party conducting any
16 mining, mineral, or geothermal leasing activity on lands
17 comprising the Fort Carson Reservation or Pinon Canyon
18 Maneuver Site shall indemnify the United States against
19 any costs, fees, damages, or other liabilities (including
20 costs of litigation) incurred by the United States and aris-
21 ing from or relating to such mining activities, including
22 costs of mineral materials disposal, whether arising under
23 the Comprehensive Environmental Response Compensa-
24 tion and Liability Act of 1980, the Solid Waste Disposal
25 Act, or otherwise.

1 **SEC. 12. AMENDMENT TO MILITARY LANDS WITHDRAWAL**
2 **ACT OF 1986.**

3 (a) USE OF CERTAIN RESOURCES.—Section 3(f) of
4 the Military Lands Withdrawal Act of 1986 (Public Law
5 99–606; 100 Stat. 3461) is amended by adding at the end
6 the following new paragraph:

7 “(2) Subject to valid existing rights, the Secretary
8 of the military department concerned may utilize sand,
9 gravel, or similar mineral or material resources when the
10 use of such resources is required for construction needs
11 on the respective lands withdrawn by this Act.”.

12 (b) TECHNICAL CORRECTION.—Section 9(b) of the
13 Military Lands Withdrawal Act of 1986 (Public Law 99–
14 606; 100 Stat. 3466) is amended by striking “section
15 7(f)” and inserting in lieu thereof “section 8(f)”.

16 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

17 There are hereby authorized to be appropriated such
18 sums as may be necessary to carry out the purposes of
19 this Act.

○