

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 194

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

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. HEFLEY introduced the following bill; which was referred jointly to the Committees on Natural Resources and Armed Services

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## 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 Reserva-  
tion.

- 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 Management of withdrawn lands.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 Management of withdrawn and acquired mineral resources.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 and effect of contamination.
- Sec. 9. Delegation.
- Sec. 10. Hold harmless.
- Sec. 11. Amendment to military lands withdrawal act of 1986.
- Sec. 12. 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 that are described  
 6 in subsection (c) are hereby withdrawn from all forms of  
 7 appropriation under the public land laws including the  
 8 mining laws and the mineral and geothermal leasing laws.

9 (b) RESERVATION.—The lands withdrawn under sub-  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

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

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

16 (c) LAND DESCRIPTION.—The lands referred to in  
 17 subsection (a) comprise 3,133.02 acres of public land and  
 18 11,415.16 acres of federally-owned minerals in El Paso,  
 19 Pueblo, and Fremont Counties, Colorado, as generally de-  
 20 picted on the map entitled “Fort Carson Proposed With-

1 drawal—Fort Carson Base”, dated February 1992, and  
2 filed in accordance with section 4.

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

5 (a) WITHDRAWAL.—Subject to valid existing rights  
6 and except as otherwise provided in this Act, the lands  
7 at the Pinon Canyon Maneuver Site that are described in  
8 subsection (c) are hereby withdrawn from all forms of ap-  
9 propriation under the public land laws including the min-  
10 ing laws and the mineral and geothermal leasing laws.

11 (b) RESERVATION.—The lands withdrawn under sub-  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

14 (1) for military maneuvering and training; 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 2,517.12 acres of public lands and  
19 130,139 acres of federally-owned minerals in Las Animas  
20 County, Colorado, as generally depicted on the map enti-  
21 tled “Fort Carson Proposed Withdrawal—Fort Carson  
22 Maneuver Area—Pinon Canyon site”, dated February  
23 1992, and filed in accordance with section 4.

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

2 (a) PREPARATION.—As soon as practicable after the  
3 date of enactment of this Act, the Secretary of the Interior  
4 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 a legal description of the  
9 lands withdrawn and reserved by this Act with the  
10 Committee on Energy and Natural Resources of the  
11 Senate and with the Committee on Interior and In-  
12 sular Affairs of the House of Representatives.

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

18 (c) LOCATION OF COPIES.—Copies of such maps and  
19 legal descriptions shall be available for public inspection  
20 in the offices of the Colorado State Director and the  
21 Canon City District Manager of the Bureau of Land Man-  
22 agement, and the Commander, Fort Carson, Colorado.

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

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

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

9 (2) When military operations, public safety, or na-  
10 tional security, as determined by the Secretary of the  
11 Army, require the closure of roads and trails on the lands  
12 withdrawn by this Act commonly in public use, the Sec-  
13 retary of the Army is authorized to take such action, ex-  
14 cept that such closures shall be limited to the minimum  
15 areas and periods required for the purposes specified in  
16 this subsection. Appropriate warning notices shall be kept  
17 posted during closures.

18 (3) The Secretary of the Army shall take necessary  
19 precautions to prevent and suppress brush and range fires  
20 occurring within and outside the lands as a result of mili-  
21 tary activities and may seek assistance from the Bureau  
22 of Land Management in suppressing such fires. The  
23 memorandum of understanding required by this section  
24 shall provide for Bureau of Land Management assistance  
25 in the suppression of such fires, and for a transfer of

1 funds from the Department of the Army to the Bureau  
2 of Land Management as compensation for such assistance.

3 (b) MANAGEMENT PLAN.—The Secretary of the  
4 Army, with the concurrence of the Secretary of the Inte-  
5 rior, shall develop a plan for the management of acquired  
6 lands and lands withdrawn under sections 2 and 3 for the  
7 period of withdrawal. The plan shall—

8 (1) be consistent with applicable law;

9 (2) include such provisions as may be necessary  
10 for proper resource management and protection of  
11 the natural, cultural, and other resources and values  
12 of such lands;

13 (3) identify those withdrawn and acquired  
14 lands, if any, which are to be open to mining or min-  
15 eral and geothermal leasing, including mineral mate-  
16 rials disposal; and

17 (4) be developed not later than 5 years after  
18 the date of enactment of this Act.

19 (c) LISTING OF LANDS SUITABLE FOR MINING.—On  
20 completion of the management plan prepared pursuant to  
21 subsection (b), the Secretary of the Interior shall publish  
22 a notice in the Federal Register listing the lands deter-  
23 mined under such subsection to be suitable for opening  
24 to mining, and mineral and geothermal leasing, including

1 mineral materials disposal, and specifying the opening  
2 date.

3 (d) IMPLEMENTATION OF MANAGEMENT PLAN.—(1)  
4 The Secretary of the Army and the Secretary of the Inte-  
5 rior shall enter into a memorandum of understanding to  
6 implement the management plan described in subsection  
7 (b).

8 (2) The duration of any such memorandum of under-  
9 standing shall be the same as the period of withdrawal  
10 under section 8.

11 (3) The memorandum of understanding may be  
12 amended by agreement of both Secretaries.

13 (e) REEXAMINATION OF LANDS FOR SUITABILITY  
14 FOR MINING.—At least every five years after the initial  
15 identification of lands suitable for opening to mining re-  
16 quired by subsection (b)(3), the Secretary of the Army and  
17 the Secretary of the Interior shall determine those with-  
18 drawn lands, if any, which the Secretaries consider suit-  
19 able for opening to mining, mineral and geothermal leas-  
20 ing, or mineral material disposal, and those acquired  
21 lands, if any, which the Secretaries consider suitable for  
22 opening to mineral and geothermal leasing or mineral ma-  
23 terial disposal. The Secretary of the Interior shall publish  
24 a notice in the Federal Register listing the lands deter-

1 mined suitable for opening and specifying the opening  
2 date.

3 (f) USE OF CERTAIN RESOURCES.—The Secretary of  
4 the Army is authorized to utilize sand, gravel, or similar  
5 mineral or mineral material resources when the use of  
6 such resources is required for construction needs of the  
7 Fort Carson Reservation or Pinon Canyon Maneuver Site.

8 **SEC. 6. MANAGEMENT OF WITHDRAWN AND ACQUIRED**  
9 **MINERAL RESOURCES.**

10 (a) AUTHORITY OF SECRETARY OF THE INTERIOR.—  
11 Notwithstanding any other provision of law, and except  
12 as provided in section 5 of this Act, the Secretary of the  
13 Interior shall manage all withdrawn and acquired mineral  
14 resources contained within the boundaries of the Fort Car-  
15 son Reservation and Pinon Canyon Maneuver Site.

16 (b) EFFECT OF IDENTIFICATION OF LANDS AS SUIT-  
17 ABLE FOR MINING.—On the day specified by the Sec-  
18 retary of the Interior in the notice published in the Fed-  
19 eral Register pursuant to subsections (c) and (e) of section  
20 5, the land identified as suitable for opening to the oper-  
21 ation of the mining, mineral, and geothermal leasing and  
22 the mineral material disposal laws shall automatically be  
23 open to the operation of such laws without the necessity  
24 for further action by either the Secretary of the Interior  
25 or the Congress.

1           (c) EXCEPTION FROM CERTAIN LAWS.—No deposit  
2 of minerals or materials of the types identified by section  
3 3 of the Act of July 23, 1955 (30 U.S.C. 611; 69 Stat.  
4 368), whether or not included in the term “common vari-  
5 eties” in that Act, shall be subject to location under the  
6 Act of May 10, 1872 (commonly known as the Mining  
7 Law of 1872) (30 U.S.C. 22 et seq.), on lands described  
8 in sections 2 and 3.

9           (d) REGULATIONS.—On lands identified for opening  
10 to mining, mineral, and geothermal leasing or mineral ma-  
11 terial disposal by section 5(b)(3), or by subsequent amend-  
12 ments to the management plan described in section 5, all  
13 minerals contained in those lands shall be subject to min-  
14 ing, mineral, and geothermal leasing or mineral material  
15 disposal under such rules and regulations as the Secretary  
16 of the Interior may promulgate pursuant to the terms and  
17 conditions of section 12 of the Military Lands Withdrawal  
18 Act of 1986 (Public Law 99–606; 100 Stat. 3466).

19           (e) CLOSURE OF LANDS UNDER CERTAIN CIR-  
20 CUMSTANCES.—In the event of a national emergency or  
21 for purposes of national defense or security, the Secretary  
22 of the Interior, at the request of the Secretary of the  
23 Army, shall close any lands that have been opened to min-  
24 ing, mineral, and geothermal leasing or mineral material  
25 disposal pursuant to this section.

1 (f) MINING CLAIMS.—(1) Except as otherwise pro-  
2 vided in this Act, mining claims located pursuant to this  
3 Act shall be subject to the provisions of the Act of May  
4 10, 1872 (commonly known as the Mining Law of 1872)  
5 (30 U.S.C. 22 et seq.). In the event of a conflict between  
6 that law and this Act, this Act shall prevail.

7 (2) All mining claims located under the terms of this  
8 Act shall be subject to the provisions of the Federal Land  
9 Policy and Management Act of 1976 (43 U.S.C. 1701 et  
10 seq.).

11 (g) PATENTS FOR LOCATABLE MINERALS.—(1) Pat-  
12 ents issued pursuant to this Act for locatable minerals  
13 shall convey title to the locatable minerals only, and shall  
14 be issued together with an appropriate authorization for  
15 use of so much of the surface as may be necessary for  
16 purposes incident to mining under the guidelines for such  
17 use established by the Secretary of the Interior by regula-  
18 tion.

19 (2) All such patents shall contain a reservation to the  
20 United States of the surface of all lands patented and of  
21 all nonlocatable minerals on those lands.

22 (3) For the purposes of this section, all minerals sub-  
23 ject to location under the Act of May 10, 1872 (commonly  
24 known as the Mining Law of 1872) (30 U.S.C. 22 et seq.),  
25 are referred to as “locatable minerals”.

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

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

6 **SEC. 8. TERMINATION OF WITHDRAWAL AND RESERVATION**  
7 **AND EFFECT OF CONTAMINATION.**

8 (a) **TERMINATION DATE.**—The withdrawal and res-  
9 ervation established by this Act shall terminate 15 years  
10 after the date of the enactment of this Act.

11 (b) **DETERMINATION OF CONTINUING MILITARY**  
12 **NEED.**—(1) At least three years prior to the termination  
13 under subsection (a) of the withdrawal and reservation es-  
14 tablished by this Act, the Secretary of the Army shall ad-  
15 vise the Secretary of the Interior as to whether or not the  
16 Department of the Army will have a continuing military  
17 need for any of the lands after the termination date.

18 (2) If the Secretary of the Army concludes under  
19 paragraph (1) that there will be a continuing military need  
20 for any of the lands after the termination date established  
21 by subsection (a), the Secretary of the Army, in accord-  
22 ance with applicable law, shall evaluate the environmental  
23 effects of renewal of such withdrawal and reservation,  
24 shall hold at least one public hearing in Colorado concern-  
25 ing such evaluation, and shall thereafter file an application  
26 for extension of the withdrawal and reservation of such

1 lands in accordance with the regulations and procedures  
2 of the Department of the Interior applicable to the exten-  
3 sion of withdrawals for military uses. The Secretary of the  
4 Interior shall notify the Congress concerning such filing  
5 and thereafter may take necessary steps, in accordance  
6 with applicable law, to prevent uses inconsistent with such  
7 extension for a period not in excess of 2 years after the  
8 termination of the withdrawal and reservation made by  
9 this Act.

10 (3) If the Secretary of the Army concludes under  
11 paragraph (1) that prior to the termination date estab-  
12 lished by subsection (a), there will be no military need for  
13 all or any of the lands withdrawn and reserved by this  
14 Act, or if, during the period of withdrawal, the Secretary  
15 of the Army decides to relinquish any or all of the lands  
16 withdrawn and reserved under this Act, the Secretary of  
17 the Army shall file a notice of intention to relinquish with  
18 the Secretary of the Interior.

19 (c) DETERMINATION OF CONTAMINATION.—Prior to  
20 the filing of a notice of intention to relinquish pursuant  
21 to subsection (b)(3), the Secretary of the Army shall pre-  
22 pare a written determination as to whether and to what  
23 extent the lands are contaminated with explosive, toxic,  
24 or other hazardous materials. A copy of the determination  
25 made by the Secretary of the Army shall be supplied with

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

6 (d) EFFECT OF CONTAMINATION.—(1) If any land  
7 which is the subject of a notice of intention to relinquish  
8 under subsection (b)(3) is contaminated, and the Sec-  
9 retary of the Interior, in consultation with the Secretary  
10 of the Army, determines that decontamination is prac-  
11 ticable and economically feasible, taking into consideration  
12 the potential future use and value of the land, and that  
13 upon decontamination, the land could be opened to the  
14 operation of some or all of the public land laws, including  
15 the mining laws, the Secretary of the Army shall decon-  
16 taminated the land to the extent that funds are appro-  
17 priated for such purpose.

18 (2) If the Secretaries of the Army and the Interior  
19 conclude either that decontamination of any or all of the  
20 lands proposed for relinquishment is not practicable or  
21 economically feasible, or that the lands cannot be decon-  
22 taminated sufficiently to allow them to be opened to the  
23 operation of the public land laws, or if Congress declines  
24 to appropriate funds for decontamination of the lands, the

1 Secretary of the Interior shall not be required to accept  
2 the lands proposed for relinquishment.

3 (3) If, because of their contaminated state, the Sec-  
4 retary of the Interior declines under paragraph (2) to ac-  
5 cept jurisdiction of the lands proposed for relinquishment,  
6 or if at the expiration of the withdrawal made by this Act  
7 the Secretary of the Interior determines that some of the  
8 lands withdrawn by this Act are contaminated to an extent  
9 which prevents opening such contaminated lands to oper-  
10 ation of the public land laws—

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

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

19 (C) the Secretary of the Army shall report to  
20 the Secretary of the Interior and to the Congress  
21 concerning the status of such lands and all actions  
22 taken in furtherance of the subsection.

23 (4) If the lands are subsequently decontaminated,  
24 upon certification by the Secretary of the Army that the  
25 lands are safe for all nonmilitary uses, the Secretary of

1 the Interior shall reconsider accepting jurisdiction over the  
2 lands.

3 (e) PROGRAM OF DECONTAMINATION.—Throughout  
4 the duration of the withdrawal and reservation made by  
5 this Act, the Secretary of the Army, to the extent funds  
6 are made available, shall maintain a program of decon-  
7 tamination of the lands withdrawn by this Act at least  
8 at the level of effort carried out during fiscal year 1992.

9 (f) ACCEPTANCE OF LANDS PROPOSED FOR RELIN-  
10 QUISHMENT.—Notwithstanding any other provision of  
11 law, the Secretary of the Interior, upon deciding that it  
12 is in the public interest to accept jurisdiction over the  
13 lands proposed for relinquishment, is authorized to revoke  
14 the withdrawal and reservation established by this Act as  
15 it applies to the lands proposed for relinquishment. Should  
16 the decision be made to revoke the withdrawal and res-  
17 ervation, the Secretary shall publish in the Federal Reg-  
18 ister an appropriate order which shall—

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

1 **SEC. 9. DELEGATION.**

2 The functions of the Secretary of the Army under  
3 this Act may be delegated. The functions of the Secretary  
4 of the Interior under this Act may be delegated, except  
5 that the order referred to in section 8(f) may be approved  
6 and signed only by the Secretary of the Interior, the Dep-  
7 uty Secretary of the Interior, or an Assistant Secretary  
8 of the Department of the Interior.

9 **SEC. 10. HOLD HARMLESS.**

10 The United States and all departments or agencies  
11 thereof shall be held harmless and shall not be liable for  
12 any injuries or damages to persons or property suffered  
13 in the course of any mining, mineral, or geothermal leas-  
14 ing activity conducted on lands comprising the Fort Car-  
15 son Reservation or Pinon Canyon Maneuver Site.

16 **SEC. 11. AMENDMENT TO MILITARY LANDS WITHDRAWAL**  
17 **ACT OF 1986.**

18 Section 3(f) of the Military Lands Withdrawal Act  
19 of 1986 (Public Law 99–606, 100 Stat. 3461) is amended  
20 by adding at the end a new paragraph (2) as follows:

21 “(2) The Secretary of the military department con-  
22 cerned may utilize sand, gravel, or similar mineral or ma-  
23 terial resources when the use of such resources is required  
24 for construction needs on the respective lands withdrawn  
25 by this Act.”.

1 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

2       There are hereby authorized to be appropriated such  
3 sums as may be necessary to carry out the purposes of  
4 this Act.

○

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