

103^D CONGRESS
1ST SESSION

H. R. 194

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

AN ACT

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”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 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 Management of withdrawn lands.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 Management of withdrawn and acquired mineral resources.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 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.

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

5 (a) WITHDRAWAL.—Subject to valid existing rights
 6 and except as otherwise provided in this Act, the lands
 7 at the Fort Carson Military Reservation that are described
 8 in subsection (c) are hereby withdrawn from all forms of
 9 appropriation under the public land laws, including the
 10 mining 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11 (b) RESERVATION.—The lands withdrawn under sub-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, training and
 15 weapons firing; and

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

18 (c) LAND DESCRIPTION.—The lands referred to in
 19 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 1992, and
5 filed 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 that are described in
11 subsection (c) are hereby withdrawn from all forms of ap-
12 propriation under the public land laws, including the min-
13 ing laws and the mineral and geothermal leasing laws.

14 (b) **RESERVATION.**—The lands withdrawn under sub-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

17 (1) for military maneuvering and training; and

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

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

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

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

4 (a) PREPARATION.—As soon as practicable after the
5 date of enactment of this Act, the Secretary of the Interior
6 shall—

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

10 (2) file maps and a legal description of the
11 lands withdrawn and reserved by this Act with the
12 Committee on Energy and Natural Resources of the
13 Senate and with the Committee on Interior and In-
14 sular Affairs of the House of Representatives.

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

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

1 (d) COSTS.—The Secretary of the Army shall reim-
2 burse the Secretary of the Interior for the costs of imple-
3 menting this section.

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

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

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

21 (3) The Secretary of the Army shall take necessary
22 precautions to prevent and suppress brush and range fires
23 occurring within and outside the lands as a result of mili-
24 tary activities and may seek assistance from the Bureau
25 of Land Management in suppressing such fires. The

1 memorandum of understanding required by this section
2 shall provide for Bureau of Land Management assistance
3 in the suppression of such fires, and for a transfer of
4 funds from the Department of the Army to the Bureau
5 of Land Management as compensation for such assistance.

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

11 (1) be consistent with applicable law;

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

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

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

22 (c) LISTING OF LANDS SUITABLE FOR MINING.—On
23 completion of the management plan prepared pursuant to
24 subsection (b), the Secretary of the Interior shall publish
25 a notice in the Federal Register listing the lands deter-

1 mined under such subsection to be suitable for opening
2 to mining, and mineral and geothermal leasing, including
3 mineral materials disposal, and specifying the opening
4 date.

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

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

13 (3) The memorandum of understanding may be
14 amended by agreement of both Secretaries.

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

1 a notice in the Federal Register listing the lands deter-
2 mined suitable for opening and specifying the opening
3 date.

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

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

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

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

1 for further action by either the Secretary of the Interior
2 or the Congress.

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

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

22 (e) CLOSURE OF LANDS UNDER CERTAIN CIR-
23 CUMSTANCES.—In the event of a national emergency or
24 for purposes of national defense or security, the Secretary
25 of the Interior, at the request of the Secretary of the

1 Army, shall close any lands that have been opened to min-
2 ing, mineral, and geothermal leasing or mineral material
3 disposal pursuant to this section.

4 (f) MINING CLAIMS.—(1) Except as otherwise pro-
5 vided in this Act, mining claims located pursuant to this
6 Act shall be subject to the provisions of the Act of May
7 10, 1872 (commonly known as the Mining Law of 1872)
8 (30 U.S.C. 22 et seq.), or to the provisions of other laws
9 enacted hereafter (including provisions for payments to
10 the United States) that are applicable to similar claims
11 on the public domain.

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

16 (g) PATENTS FOR LOCATABLE MINERALS.—(1) Pat-
17 ents issued pursuant to this Act for locatable minerals
18 shall convey title to the locatable minerals only, and shall
19 be issued together with an appropriate authorization for
20 use of so much of the surface as may be necessary for
21 purposes incident to mineral activities under the guidelines
22 for such use established by the Secretary of the Interior
23 by regulation.

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

4 (3) For the purposes of this Act:

5 (A) The term “locatable minerals” means any
6 mineral not subject to disposition under any of the
7 following:

8 (i) The Mineral Leasing Act (30 U.S.C.
9 181 et seq.).

10 (ii) The Geothermal Steam Act of 1970
11 (30 U.S.C. 1001 et seq.).

12 (iii) The Act of July 31, 1947, commonly
13 known as the Materials Act of 1947 (30 U.S.C.
14 601 et seq.).

15 (iv) The Mineral Leasing for Acquired
16 Lands Act (30 U.S.C. 351 et seq.).

17 (B) The term “mineral activities” means any
18 activity for, related to, or incidental to mineral ex-
19 ploration, mining, beneficiation, and processing ac-
20 tivities for any locatable mineral, including access.

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

22 All hunting, fishing, and trapping on the lands with-
23 drawn and reserved by this Act shall be conducted in ac-
24 cordance with section 2671 of title 10, United States
25 Code.

1 **SEC. 8. TERMINATION OF WITHDRAWAL AND RESERVATION**
2 **AND EFFECT OF CONTAMINATION.**

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

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

13 (2) If the Secretary of the Army concludes under
14 paragraph (1) that there will be a continuing military need
15 for any of the lands after the termination date established
16 by subsection (a), the Secretary of the Army, in accord-
17 ance with applicable law, shall evaluate the environmental
18 effects of renewal of such withdrawal and reservation,
19 shall hold at least one public hearing in Colorado concern-
20 ing such evaluation, and shall thereafter file an application
21 for extension of the withdrawal and reservation of such
22 lands in accordance with the regulations and procedures
23 of the Department of the Interior applicable to the exten-
24 sion of withdrawals for military uses. The Secretary of the
25 Interior shall notify the Congress concerning such filing.

1 (3) If the Secretary of the Army concludes under
2 paragraph (1) that prior to the termination date estab-
3 lished by subsection (a), there will be no military need for
4 all or any of the lands withdrawn and reserved by this
5 Act, or if, during the period of withdrawal, the Secretary
6 of the Army decides to relinquish any or all of the lands
7 withdrawn and reserved under this Act, the Secretary of
8 the Army shall file a notice of intention to relinquish with
9 the Secretary of the Interior.

10 (c) DETERMINATION OF CONTAMINATION.—Prior to
11 the filing of a notice of intention to relinquish pursuant
12 to subsection (b)(3), the Secretary of the Army shall pre-
13 pare a written determination as to whether and to what
14 extent the lands are contaminated with explosive, toxic,
15 or other hazardous materials. A copy of the determination
16 made by the Secretary of the Army shall be supplied with
17 the notice of intention to relinquish. Copies of both the
18 notice of intention to relinquish and the determination
19 concerning the contaminated state of the lands shall be
20 published in the Federal Register by the Secretary of the
21 Interior.

22 (d) EFFECT OF CONTAMINATION.—(1) If any land
23 which is the subject of a notice of intention to relinquish
24 under subsection (b)(3) is contaminated, and the Sec-
25 retary of the Interior, in consultation with the Secretary

1 of the Army, determines that decontamination is prac-
2 ticable and economically feasible, taking into consideration
3 the potential future use and value of the land, and that
4 upon decontamination, the land could be opened to the
5 operation of some or all of the public land laws, including
6 the mining laws, the Secretary of the Army shall decon-
7 taminated the land to the extent that funds are appro-
8 priated for such purpose.

9 (2) If the Secretaries of the Army and the Interior
10 conclude either that decontamination of any or all of the
11 lands proposed for relinquishment is not practicable or
12 economically feasible, or that the lands cannot be decon-
13 taminated sufficiently to allow them to be opened to the
14 operation of the public land laws, or if Congress declines
15 to appropriate funds for decontamination of the lands, the
16 Secretary of the Interior shall not be required to accept
17 the lands proposed for relinquishment.

18 (3) If, because of their contaminated state, the Sec-
19 retary of the Interior declines under paragraph (2) to ac-
20 cept jurisdiction of the lands proposed for relinquishment,
21 or if at the expiration of the withdrawal made by this Act
22 the Secretary of the Interior determines that some of the
23 lands withdrawn by this Act are contaminated to an extent
24 which prevents opening such contaminated lands to oper-
25 ation of the public land laws—

1 (A) the Secretary of the Army shall take appro-
2 priate steps to warn the public of the contaminated
3 state of such lands and any risks associated with
4 entry onto such lands;

5 (B) after the expiration of the withdrawal, the
6 Secretary of the Army shall undertake no activities
7 on such lands except in connection with decon-
8 tamination of such lands; and

9 (C) the Secretary of the Army shall report to
10 the Secretary of the Interior and to the Congress
11 concerning the status of such lands and all actions
12 taken in furtherance of the subsection.

13 (4) If the lands are subsequently decontaminated,
14 upon certification by the Secretary of the Army that the
15 lands are safe for all nonmilitary uses, the Secretary of
16 the Interior shall reconsider accepting jurisdiction over the
17 lands.

18 (e) PROGRAM OF DECONTAMINATION.—Throughout
19 the duration of the withdrawal and reservation made by
20 this Act, the Secretary of the Army, to the extent funds
21 are made available, shall maintain a program of decon-
22 tamination of the lands withdrawn by this Act at least
23 at the level of effort carried out during fiscal year 1992.

24 (f) ACCEPTANCE OF LANDS PROPOSED FOR RELIN-
25 QUISHMENT.—Notwithstanding any other provision of

1 law, the Secretary of the Interior, upon deciding that it
2 is in the public interest to accept jurisdiction over the
3 lands proposed for relinquishment, is authorized to revoke
4 the withdrawal and reservation established by this Act as
5 it applies to the lands proposed for relinquishment. Should
6 the decision be made to revoke the withdrawal and res-
7 ervation, the Secretary shall publish in the Federal Reg-
8 ister an appropriate order 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 the public land laws, in-
15 cluding the mining laws if appropriate.

16 **SEC. 9. DELEGATION.**

17 The functions of the Secretary of the Army under
18 this Act may be delegated. The functions of the Secretary
19 of the Interior under this Act may be delegated, except
20 that the order referred to in section 8(f) may be approved
21 and signed only by the Secretary of the Interior, the Dep-
22 uty Secretary of the Interior, or an Assistant Secretary
23 of the Department of the Interior.

1 **SEC. 10. HOLD HARMLESS.**

2 The United States and all departments or agencies
3 thereof shall be held harmless and shall not be liable for
4 any injuries or damages to persons or property suffered
5 in the course of any mining, mineral activity, or geo-
6 thermal leasing activity conducted on lands comprising the
7 Fort Carson Reservation or Pinon Canyon Maneuver Site.

8 **SEC. 11. AMENDMENT TO MILITARY LANDS WITHDRAWAL**
9 **ACT OF 1986.**

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

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

18 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

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

Passed the House of Representatives May 11, 1993.

Attest: DONNALD K. ANDERSON,
Clerk.

HR 194 RFS—2