

103^D CONGRESS
1ST SESSION

H. R. 2080

To improve the management of public lands used for military purposes, to require assessments of future needs for withdrawals of public lands for such uses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 1993

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

A BILL

To improve the management of public lands used for military purposes, to require assessments of future needs for withdrawals of public lands for such 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 DEFINITIONS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Military Land Reform and Reassessment Act of 1993”.

6 (b) DEFINITIONS.—As used in this Act:

7 (1) The term “Secretary” means the Secretary
8 of the Interior.

1 (2) The term “FLPMA” means the Federal
2 Land Policy and Management Act of 1976, (43
3 U.S.C. 1701 et seq.).

4 (3) The term “Engle Act” means the Act enti-
5 tled “An Act to provide that withdrawals, reserva-
6 tions, or restrictions of more than five thousand
7 acres of public lands of the United States shall not
8 become effective until approved by Act of Congress,
9 and for other purposes,” approved February 28,
10 1958 (43 U.S.C. 155 et seq.).

11 (4) The term “1956 Act” means the Act of
12 July 26, 1956 (16 U.S.C. 505a, 505b).

13 **SEC. 2. STATE MILITARY USES.**

14 (a) STATE AGENCIES.—Section 302(b) of FLPMA
15 (43 U.S.C. 1732(b)) is amended by inserting “or the mili-
16 tary department (or its equivalent) of any State” after
17 “Federal departments and agencies”.

18 (b) NATIONAL GUARD USE OF PUBLIC LANDS.—Sec-
19 tion 302 of FLPMA (43 U.S.C. 1732), as amended, is
20 further amended by adding at the end the following new
21 subsection:

22 “(e) STATE MILITARY USES.—(1) After consultation
23 with the Governor of a State, the Secretary may agree
24 to permit use of public lands within such State by the mili-
25 tary department (or its equivalent) of one or more States

1 for purposes of military training, equipment testing, or
2 other authorized military activities, in accordance with the
3 provisions of this subsection.

4 “(2)(A) For activities the Secretary finds are not
5 likely to result in a significant degree of residual contami-
6 nation of affected lands (through use of explosive projec-
7 tiles or otherwise), the Secretary may issue a general au-
8 thorization for the military department (or its equivalent)
9 of one or more States to use public lands where such use
10 would not be inconsistent with the land-use plans prepared
11 pursuant to section 202 of this Act. Any such general au-
12 thorization shall be for no more than 3 years but may
13 thereafter be renewed for additional periods of no more
14 than 3 years each. The provisions of paragraph (4) of this
15 subsection shall apply to use of public lands pursuant to
16 an authorization issued under this paragraph, and the
17 Secretary may wholly or partially revoke any such author-
18 ization at any time if the Secretary finds that there has
19 been a failure to comply with its terms and conditions or
20 that activities pursuant to such an authorization have had
21 or may have a significant adverse impact on the resources
22 or values of the affected lands.

23 “(B) An authorization pursuant to this paragraph
24 shall not authorize the construction of permanent struc-
25 tures or facilities on the public lands.

1 “(C) Each specific use of a particular area of public
2 lands pursuant to a general authorization under this para-
3 graph shall be subject to specific authorization by the Sec-
4 retary and to appropriate terms and conditions, including
5 such as are described in paragraph (4) of this subsection.

6 “(3) The Secretary may permit the military depart-
7 ment (or its equivalent) of one or more States to use pub-
8 lic lands for military activities the Secretary finds would
9 result in a significant degree of residual contamination of
10 such lands, subject to the provisions of paragraph (4) of
11 this subsection, but only to the extent that—

12 “(A) use of specific portions of such lands for
13 such purposes was either authorized as of July 1,
14 1989, or had been permitted to occur on or after
15 January 1, 1986, in which case such uses on such
16 portions may take place, subject to paragraph (4) of
17 this subsection; or

18 “(B) use of public or other lands previously
19 withdrawn or otherwise dedicated to military uses is
20 found by the Secretary (after consultation with the
21 Secretary of Defense) to not be practicable, and
22 therefore additional public lands other than those
23 portions described in subparagraph (A) are with-
24 drawn for military purposes, pursuant to section 204
25 of this Act (with respect to areas of no more than

1 5,000 acres) or pursuant to an Act of Congress
2 (with respect to areas exceeding 5,000 acres, except
3 that in time of war or national emergency declared
4 by the Congress or the President pursuant to appli-
5 cable law, withdrawals of areas exceeding 5,000
6 acres for military purposes may be made pursuant
7 to section 204 of this Act).

8 “(4) The Secretary may waive rental charges for the
9 use of public land (however such use may be authorized)
10 by a State military department (or its equivalent) for mili-
11 tary training, equipment testing, and other authorized
12 military activities permitted under this subsection. Each
13 such use shall be subject to a requirement that the using
14 department, or departments, be responsible for such time-
15 ly cleanup and decontamination of the lands used, and to
16 such other terms and conditions (including but not limited
17 to restrictions on use of off-road or all-terrain vehicles),
18 as the Secretary, after considering national defense needs,
19 may require to—

20 “(A) minimize adverse impacts on the natural,
21 environmental, scientific, cultural, and other re-
22 sources and values, including fish and wildlife habi-
23 tat, of the public lands involved; and

1 “(B) minimize the period and method of such
2 use and the interference with or restrictions on other
3 uses of the public lands involved.

4 “(5) Each State military department (or its equiva-
5 lent) using public lands withdrawn for military purposes
6 shall take appropriate precautions to prevent and suppress
7 range and brush fires caused by or resulting from use of
8 such lands for such purposes, and shall promptly reim-
9 burse the United States for any assistance provided by
10 the Secretary in the prevention or suppression of such
11 fires.

12 “(6) For purposes of this subsection, the term ‘State’
13 means one of the several States, the District of Columbia,
14 or one of the Commonwealths or territories of the United
15 States.

16 “(7)(A) Public lands covered by an authorization is-
17 sued pursuant to paragraph (2) of this subsection may
18 be used by personnel of the military department (or its
19 equivalent) of a State during periods when some or all of
20 such personnel are on active duty in the service of the
21 United States.

22 “(B) During periods of use of public lands by person-
23 nel of a State military department or equivalent, the Sec-
24 retary may also permit such lands to be used by members
25 of one or more United States Armed Forces on active serv-

1 ice, under the same terms and conditions applicable to use
2 of such lands by the personnel of such State military de-
3 partment or its equivalent.

4 “(8) Except as otherwise provided by applicable law,
5 any authorization by the Secretary for the military depart-
6 ment (or its equivalent) of any State or States to use pub-
7 lic lands that is in effect on the date of enactment of this
8 subsection shall remain in effect until its scheduled expira-
9 tion, or for one year after the date of enactment of this
10 subsection, whichever is later.

11 “(9) The Secretary shall not authorize any use of
12 public lands by the military department (or its equivalent)
13 of any State if such use would preclude or unduly restrict
14 use of such lands by the Secretary of Defense or the
15 Secretary of a department within the Department of
16 Defense.”.

17 (c) REPORT.—No later than one year after the date
18 of enactment of this subsection, the Secretary concerned
19 shall transmit to the Committee on Interior and Insular
20 Affairs of the House of Representatives and the Commit-
21 tee on Energy and Natural Resources of the Senate a re-
22 port indicating the extent to which the Department of De-
23 fense (or military department therein) and the military de-
24 partments (or their equivalents) of the several States (in-
25 cluding the District of Columbia and the Commonwealths

1 and territories of the United States) have been authorized
2 since January 1, 1987, to utilize public lands as defined
3 in section 103 of FLPMA (other than lands withdrawn
4 for military purposes) or National Forest lands for train-
5 ing or other purposes and concerning the terms and
6 conditions under which such lands may be used by such
7 agencies.

8 (d) REIMBURSEMENT.—To the extent funds are
9 made available through appropriation, the Secretary of
10 Defense may reimburse a State military department (or
11 its equivalent) for costs to such department resulting from
12 any requirement of this section (including amendments
13 made to the Act by this section) and incident to any use
14 of lands by a National Guard of a State or by United
15 States Armed Forces for purposes authorized by title 10
16 or title 32, United States Code, or by any other provision
17 of Federal law.

18 **SEC. 3. 1956 ACT REFORM.**

19 (a) INTERCHANGE AUTHORITY.—The first section of
20 the 1956 Act is amended as follows:

21 (1) By inserting “except lands within a con-
22 servation system unit or other area designated or es-
23 tablished for conservation or protection by proclama-
24 tion, Executive order, or Act of Congress” after
25 “National Forest System lands”.

1 (2) By inserting “law, including, but not limited
2 to, the National Environmental Policy Act of 1969,
3 Forest and Rangeland Renewable Resources Plan-
4 ning Act of 1974, the National Forest Management
5 Act of 1976, and” after “subject to any applicable
6 provisions of”.

7 (3) By striking “whenever they shall determine
8 that such interchange will facilitate land manage-
9 ment and will provide maximum use thereof for au-
10 thorized purposes”.

11 (4) By inserting “with respect to interchanges
12 involving lands within the same State, or one-hun-
13 dred-eighty days with respect to other interchanges”
14 after “forty-five days”.

15 (b) DETERMINATION BY SECRETARY.—The 1956 Act
16 is further amended by adding at the end the following new
17 section:

18 “SEC. 3. (a) The Secretary of Agriculture shall take
19 into account information provided by the Secretary of De-
20 fense concerning the value for military purposes of lands
21 proposed for transfer to the jurisdiction of the Depart-
22 ment of Defense, but shall exercise the authority provided
23 by this Act only if the Secretary of Agriculture determines
24 that an interchange will improve the protection and man-

1 agement of the natural, cultural, or other resources and
2 values of the National Forest System.

3 “(b) For purposes of this Act, the term ‘conservation
4 system unit’ means a unit of the National Wilderness
5 Preservation System, National Wild and Scenic Rivers
6 System, or National Trails System, a national monument,
7 a national recreation area, a national scenic area, or a na-
8 tional management emphasis area.”.

9 **SEC. 4. AIRSPACE.**

10 The first section of the Engle Act is amended as
11 follows:

12 (1) By inserting “(a)” after “That”.

13 (2) By adding at the end the following new sub-
14 sections:

15 “(b) AIRSPACE.—(1) Except as provided in para-
16 graph (2) of this subsection and notwithstanding any
17 other provision of law or any rule, regulation, or order is-
18 sued pursuant thereto, no zone or area in the airspace over
19 either nonmilitary public lands or lands managed by the
20 Secretary of Agriculture shall be established for use by
21 the Department of Defense for defense purposes or to re-
22 strict or prohibit the flight of civil aircraft.

23 “(2)(A) No zone or area described in paragraph (1)
24 shall be established until the officer or agency responsible
25 for such an establishment has solicited, received, and con-

1 sidered the views of the Secretary of the Interior (to the
2 extent the airspace involved is over nonmilitary public
3 lands) or the Secretary of Agriculture (to the extent the
4 airspace involved is over lands managed by such Sec-
5 retary), or both such Secretaries, with regard to the pos-
6 sible effects of the proposed use of such airspace for de-
7 fense purposes on the resources and values of the affected
8 lands and the uses of such lands, has made such views
9 available for review by the public, and has then afforded
10 the Governors of affected States, affected Indian tribes,
11 and other members of the public an opportunity to com-
12 ment on the proposed establishment of such zone or area.

13 “(B) No zone or area described in paragraph (1) over
14 a total of more than 5,000 acres of nonmilitary public
15 lands or lands managed by the Secretary of Agriculture
16 (or of both such categories of land) shall be established
17 until 180 days after the officer or agency responsible for
18 such an establishment has submitted to the Congress a
19 description of the proposed zone or area and the views
20 of the Secretary of the Interior or the Secretary of Agri-
21 culture (or both such Secretaries), the Governor of any
22 affected State, any affected Indian tribes, and the public
23 provided to such officer or agency pursuant to subpara-
24 graph (A) of this paragraph.

1 “(3) For purposes of this subsection, the following
2 terms have the following meanings—

3 “(A) the term ‘nonmilitary public land’ means
4 land managed by the Secretary of the Interior (in-
5 cluding but not limited to lands managed by the Bu-
6 reau of Land Management and the National Park
7 Service) or held by such Secretary in trust for any
8 Indian tribe and that has not been withdrawn pursu-
9 ant to this Act or otherwise reserved for military use
10 by the Department of Defense or the military de-
11 partment (or its equivalent) of any State.

12 “(B) The term ‘defense purposes’ shall not in-
13 clude emergency search and rescue or firefighting
14 activities carried out by military personnel or
15 through use of military aircraft.

16 “(c) MONITORING.—The Secretary of the Interior
17 and the Secretary of Agriculture shall monitor the effects
18 of military aircraft overflights on the resources and values
19 of nonmilitary public lands and of lands managed by the
20 Secretary of Agriculture, and on visitor enjoyment and
21 other nonmilitary uses of such lands, and shall actively
22 seek the assistance of the Secretary of Defense and other
23 appropriate officers and agencies of the United States to
24 resolve concerns related to such overflights and, to the ex-
25 tent consistent with national security needs to prevent,

1 eliminate, or minimize the derogation of the resources and
2 values of such lands of visitor enjoyment and other non-
3 military uses of such lands associated with military activi-
4 ties, including overflights.”.

5 **SEC. 5. INVENTORIES AND REPORTS.**

6 (a) EXISTING WITHDRAWALS.—(1) At the time of
7 submission, pursuant to section 114a of title 10, United
8 States Code, of the first future-years defense plan submit-
9 ted after the date of enactment of this Act, the Secretary
10 and the Secretary of Defense shall submit to the Congress
11 an inventory of all public lands withdrawn for military
12 purposes, including both lands withdrawn under the Engle
13 Act and also lands otherwise withdrawn. The Secretary
14 of Defense shall indicate the purposes for which such
15 lands were withdrawn, the uses being made of such lands,
16 and the justification for continuing the withdrawal of such
17 lands from some or all of the public land laws, including
18 the mining, mineral leasing, and geothermal leasing laws
19 of the United States.

20 (2) To the extent that the Secretary of the Interior
21 has available information concerning the natural, cultural,
22 environmental, scenic, recreational, scientific, and other
23 resources and values of the lands withdrawn for military
24 purposes.

1 (b) PROPOSED WITHDRAWALS.—(1)(A) To the ex-
2 tent feasible, each future-years defense plan required by
3 section 114a of title 10, United States Code, shall include
4 an identification of public lands whose withdrawal under
5 the Engle Act is expected to be requested by the Secretary
6 of Defense or a Secretary of a department within the De-
7 partment of Defense during the years covered by such
8 plan, together with an explanation of the proposed use for
9 each such withdrawal expected to be requested.

10 (B) Nothing in this section shall be construed as pre-
11 cluding the submission to the Secretary of the Interior or
12 to Congress of a request for withdrawal of public lands
13 not identified in future-years defense plan.

14 (2) At the time the President submits a budget re-
15 quest for the first fiscal year beginning after the date of
16 enactment of this Act, and annually thereafter, the Sec-
17 retary of the Interior shall submit to the Committee on
18 Interior and Insular Affairs of the House of Representa-
19 tives and the Committee on Energy and Natural Re-
20 sources of the Senate information concerning all proposals
21 for withdrawal of public lands under the Engle Act being
22 considered by the Department of the Interior and shall
23 indicate which such proposals have been submitted to the
24 Congress and which such proposals the Secretary of the
25 Interior expects will be submitted to the Congress during

1 the succeeding calendar year. The Secretary of the Inte-
2 rior shall also identify those prior withdrawals under the
3 Engle Act which will expire during the succeeding calendar
4 year.

5 **SEC. 6. TERMINATION OF MILITARY USES.**

6 (a) REVERTER.—Upon the termination of a with-
7 drawal of public lands under the Engle Act, or at such
8 time as other lands previously managed by the Secretary
9 or the Secretary of Agriculture are no longer used for mili-
10 tary purposes, such lands shall revert to the jurisdiction
11 and management of the Secretary or the Secretary of Ag-
12 riculture, as the case may be, unless the Secretary or the
13 Secretary of Agriculture determines that some or all of
14 such land is contaminated to an extent that renders it in-
15 appropriate for such management.

16 (b) CONTAMINATION.—If the Secretary or the Sec-
17 retary of Agriculture determines that land described in
18 subsection (a) is contaminated to an extent that renders
19 such land inappropriate for management by the Secretary
20 or the Secretary of Agriculture, the Secretary of Defense
21 shall decontaminate such lands so as to make them appro-
22 priate for such management.

23 **SEC. 7. ORCHARD TRAINING AREA.**

24 Nothing in this Act, or in any amendment to another
25 Act made by this Act, shall be construed as imposing any

1 restriction on use for military purposes of lands military
2 use of which was on July 23, 1991, authorized pursuant
3 to the Memorandum of Understanding #ID-237, dated
4 May 1985, between the State of Idaho Military Division
5 and the Bureau of Land Management, or on the military
6 use of the airspace above such lands.

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