

PUBLIC LAW 107-107—DEC. 28, 2001

NATIONAL DEFENSE AUTHORIZATION ACT
FOR FISCAL YEAR 2002

**TITLE XXIX—FORT IRWIN MILITARY
LAND WITHDRAWAL**

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Fort Irwin
Military Land
Withdrawal Act
of 2001.

SEC. 2901. SHORT TITLE.

This title may be cited as the “Fort Irwin Military Land Withdrawal Act of 2001”.

SEC. 2902. WITHDRAWAL AND RESERVATION OF LANDS FOR NATIONAL TRAINING CENTER.

(a) **WITHDRAWAL.**—Subject to valid existing rights and except as otherwise provided in this title, all public lands and interests in lands described in subsection (c) are hereby withdrawn from all forms of appropriation under the general land laws, including the mining laws and mineral and geothermal leasing laws, and jurisdiction over such lands and interests in lands withdrawn and reserved by this title is hereby transferred to the Secretary of the Army.

(b) **RESERVATION.**—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army for the following purposes:

(1) The conduct of combined arms military training at the National Training Center.

(2) The development and testing of military equipment at the National Training Center.

(3) Other defense-related purposes consistent with the purposes specified in paragraphs (1) and (2).

(4) Conservation and related research purposes.

(c) **LAND DESCRIPTION.**—The public lands and interests in lands withdrawn and reserved by this section comprise approximately 110,000 acres in San Bernardino County, California, as generally depicted as “Proposed Withdrawal Land” on the map entitled “National Training Center—Proposed Withdrawal of Public Lands for Training Purposes”, dated September 21, 2000, and filed in accordance with section 2903.

(d) **CHANGES IN USE.**—The Secretary of the Army shall consult with the Secretary of the Interior before using the lands withdrawn and reserved by this section for any purpose other than those purposes identified in subsection (b).

(e) **INDIAN TRIBES.**—Nothing in this title shall be construed as altering any rights reserved for tribal use by treaty or Federal law. The Secretary of the Army shall consult with federally recognized Indian tribes in the vicinity of the lands withdrawn under subsection (a) before taking action affecting rights or cultural resources protected by treaty or Federal law.

SEC. 2903. MAP AND LEGAL DESCRIPTION.

(a) **PREPARATION OF MAP AND LEGAL DESCRIPTION.**—As soon as practicable after the date of the enactment of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file a map and legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(b) **LEGAL EFFECT.**—The map and legal description shall have the same force and effect as if included in this title, except that the Secretary of the Interior may correct clerical and typographical errors in the map and legal description.

(c) AVAILABILITY.—Copies of the map and the legal description shall be available for public inspection in the following offices:

(1) The offices of the California State Director, California Desert District Office, and Riverside and Barstow Field Offices of the Bureau of Land Management.

(2) The Office of the Commander, National Training Center and Fort Irwin.

(d) COSTS.—The Secretary of the Army shall reimburse the Secretary of the Interior for the costs incurred by the Secretary of the Interior in implementing this section.

SEC. 2904. MANAGEMENT OF WITHDRAWN AND RESERVED LANDS.

(a) GENERAL MANAGEMENT AUTHORITY.—During the period of the withdrawal and reservation made by this title, the Secretary of the Army shall manage the lands withdrawn and reserved by this title for the purposes specified in section 2902.

(b) TEMPORARY PROHIBITION ON CERTAIN USE.—Military use of the lands withdrawn and reserved by this title that result in ground disturbance, as determined by the Secretary of the Army and the Secretary of the Interior, are prohibited until the Secretary of the Army and the Secretary of the Interior certify to Congress that there has been full compliance with respect to such lands with the appropriate provisions of this title, the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and other applicable laws.

(c) ACCESS RESTRICTIONS.—

(1) IN GENERAL.—If the Secretary of the Army determines that military operations, public safety, or national security require the closure to the public of any road, trail, or other portion of the lands withdrawn and reserved by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) LIMITATION.—Any closure under paragraph (1) shall be limited to the minimum areas and periods that the Secretary of the Army determines are required for the purposes specified in such paragraph.

(3) NOTICE.—Immediately preceding and during any closure under paragraph (1), the Secretary of the Army shall post appropriate warning notices and take other steps, as necessary, to notify the public of the closure.

(d) INTEGRATED NATURAL RESOURCES MANAGEMENT PLAN.—The Secretary of the Army shall prepare and implement, in accordance with title I of the Sikes Act (16 U.S.C. 670 et seq.), an integrated natural resources management plan for the lands withdrawn and reserved by this title. In addition to the elements required under the Sikes Act, the integrated natural resources management plan shall include the following:

(1) A requirement that any hunting, fishing, and trapping on the lands withdrawn and reserved by this title be conducted in accordance with section 2671 of title 10, United States Code.

(2) A requirement that the Secretary of the Army take necessary actions to prevent, suppress, and manage brush and range fires occurring within the boundaries of Fort Irwin and brush and range fires occurring outside the boundaries of Fort Irwin that result from military activities at Fort Irwin.

(e) **FIREFIGHTING.**—Notwithstanding section 2465 of title 10, United States Code, the Secretary of the Army may obligate funds appropriated or otherwise available to the Secretary of the Army to enter into a memorandum of understanding, cooperative agreement, or contract for fire-fighting services to carry out the requirements of subsection (d)(2). The Secretary of the Army shall reimburse the Secretary of the Interior for costs incurred by the Secretary of the Interior to assist in carrying out the requirements of such subsection.

(f) **CONSULTATION WITH NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.**—In preparing and implementing any plan, report, assessment, survey, opinion, or impact statement regarding the lands withdrawn and reserved by this title, the Secretary of the Army shall consult with the Administrator of the National Aeronautics and Space Administration whenever proposed Army actions have the potential to affect the operations or the environmental management of the Goldstone Deep Space Communications Complex. The requirement for consultation shall apply, at a minimum, to the following:

(1) Plans for military training, military equipment testing, or related activities that have the potential of impacting communications between Goldstone Deep Space Communications Complex and space flight missions or other transmission or receipt of signals from outer space by the Goldstone Deep Space Communications Complex.

(2) The integrated natural resources management plan required by subsection (d).

(3) The West Mojave Coordinated Management Plan referred to in section 2907.

(4) Any document prepared in compliance with the Endangered Species Act of 1973, the National Environmental Policy Act of 1969, and other laws applicable to the lands withdrawn and reserved by this title.

(g) **USE OF MINERAL MATERIALS.**—Notwithstanding any other provision of this title or the Act of July 31, 1947 (commonly known as the Materials Act of 1947; 30 U.S.C. 601 et seq.), the Secretary of the Army may use sand, gravel, or similar mineral material resources of the type subject to disposition under such Act from the lands withdrawn and reserved by this title if the use of such resources is required for construction needs of the National Training Center.

SEC. 2905. WATER RIGHTS.

(a) **NO RESERVED WATER RIGHT ESTABLISHED.**—Nothing in this title shall be construed—

(1) to establish a reservation in favor of the United States with respect to any water or water right on the lands withdrawn and reserved by this title; or

(2) to authorize the appropriation of water on such lands by the United States after the date of the enactment of this Act, except in accordance with applicable State law.

(b) **EFFECT ON PREVIOUSLY ACQUIRED OR RESERVED WATER RIGHTS.**—This section shall not be construed to affect any water rights acquired or reserved by the United States before the date of the enactment of this Act, and the Secretary of the Army may exercise any such previously acquired or reserved water rights.

SEC. 2906. ENVIRONMENTAL COMPLIANCE AND ENVIRONMENTAL RESPONSE REQUIREMENTS.

(a) AGREEMENTS CONCERNING THE ENVIRONMENT AND PUBLIC HEALTH.—The Secretary of the Army and the Secretary of the Interior shall enter into such agreements as are necessary, appropriate, and in the public interest to carry out the purposes of this title.

(b) RELATION TO OTHER ENVIRONMENTAL LAWS.—Nothing in this title shall relieve, and no action taken under this title may relieve, the Secretary of the Army or the Secretary of the Interior, or any other person from any liability or other obligation under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.) or any other Federal or State law.

SEC. 2907. WEST MOJAVE COORDINATED MANAGEMENT PLAN.

(a) COMPLETION.—The Secretary of the Interior shall make every effort to complete the West Mojave Coordinated Management Plan not later than two years after the date of the enactment of this Act.

(b) CONSIDERATION OF WITHDRAWAL AND RESERVATION IMPACTS.—The Secretary of the Interior shall ensure that the West Mojave Coordinated Management Plan considers the impacts of the availability or nonavailability of the lands withdrawn and reserved by this title on the plan as a whole.

(c) CONSULTATION.—The Secretary of the Interior shall consult with the Secretary of the Army and the Administrator of the National Aeronautics and Space Administration in the development of the West Mojave Coordinated Management Plan.

SEC. 2908. RELEASE OF WILDERNESS STUDY AREAS.

Congress hereby finds and directs that lands withdrawn and reserved by this title have been adequately studied for wilderness designation pursuant to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), and are no longer subject to the requirement of such section pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

SEC. 2909. TRAINING ACTIVITY SEPARATION FROM UTILITY CORRIDORS.

(a) REQUIRED SEPARATION.—All military ground activity training on the lands withdrawn and reserved by this title shall remain at least 500 meters from any utility system, in existence as of the date of the enactment of this Act, in Utility Planning Corridor D, as described in the California Desert Conservation Area Plan, dated 1980 and subsequently amended.

(b) EXCEPTION.—Subsection (a) does not modify the use of any lands used, as of the date of the enactment of this Act, by the National Training Center for training or alter any right of access granted by interagency agreement.

SEC. 2910. DURATION OF WITHDRAWAL AND RESERVATION.

(a) TERMINATION DATE.—Unless extended pursuant to section 2911, unless relinquishment is postponed by the Secretary of the Interior pursuant to section 2912(b), and except as provided in section 2912(d), the withdrawal and reservation made by this title

shall terminate 25 years after the date of the enactment of this Act.

(b) **LIMITATION ON SUBSEQUENT AVAILABILITY FOR APPROPRIATION.**—At the time of termination of the withdrawal and reservation made by this title, the previously withdrawn lands shall not be open to any forms of appropriation under the general land laws, including the mining laws and the mineral and geothermal leasing laws, until the Secretary of the Interior publishes in the Federal Register an appropriate order specifying the date upon which such lands shall be restored to the public domain and opened.

SEC. 2911. EXTENSION OF INITIAL WITHDRAWAL AND RESERVATION.

Deadline.

(a) **NOTIFICATION REQUIREMENT.**—Not later than three years before the termination date specified in section 2910(a), the Secretary of the Army shall notify Congress and the Secretary of the Interior whether the Army will have a continuing military need, beyond the termination date, for all or any portion of the lands withdrawn and reserved by this title.

(b) **PROCESS FOR EXTENSION OF WITHDRAWAL AND RESERVATION.**—

(1) **CONSULTATION AND APPLICATION.**—If the Secretary of the Army determines that there will be a continuing military need after the termination date for any of the lands withdrawn and reserved by this title, the Secretary of the Army shall—

(A) consult with the Secretary of the Interior concerning any adjustments to be made to the extent of, or to the allocation of management responsibility for, such needed lands; and

(B) file with the Secretary of the Interior, within one year after the notice required by subsection (a), an application for extension of the withdrawal and reservation of such needed lands.

(2) **APPLICATION REQUIREMENTS.**—Notwithstanding any general procedure of the Department of the Interior for processing Federal land withdrawals, an application for extension of the land withdrawal and reservation made by this title shall be considered to be complete if the application includes the information required by section 3 of Public Law 85-337 (commonly known as the Engle Act; 43 U.S.C. 157), except that no information shall be required concerning the use or development of mineral, timber, or grazing resources unless, and only to the extent, the Secretary of the Army proposes to use or develop such resources during the period of extension.

(c) **SUBMISSION OF PROPOSED EXTENSION TO CONGRESS.**—The Secretary of the Interior and the Secretary of the Army may submit to Congress a legislative proposal for the extension of the withdrawal and reservation made by this title. The legislative proposal shall be accompanied by an appropriate analysis of environmental impacts associated with the proposal, as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

SEC. 2912. TERMINATION AND RELINQUISHMENT.

(a) **NOTICE OF TERMINATION.**—During the first 22 years of the withdrawal and reservation made by this title, if the Secretary of the Army determines that there is no continuing military need for the lands withdrawn and reserved by this title, or any portion

of such lands, the Secretary of the Army shall submit to the Secretary of the Interior a notice of intent to relinquish jurisdiction over such lands. The notice shall specify the proposed date of relinquishment.

(b) ACCEPTANCE OF JURISDICTION.—The Secretary of the Interior may accept jurisdiction over any lands covered by a notice under subsection (a) if the Secretary of the Interior determines that the Secretary of the Army has taken or will take all environmental response and restoration activities required under applicable laws and regulations with respect to such lands.

(c) NOTICE OF ACCEPTANCE.—If the Secretary of the Interior decides to accept jurisdiction over lands covered by a notice under subsection (a) before the termination date of the withdrawal and reservation, the Secretary shall publish in the Federal Register an appropriate order that shall—

Federal Register,
publication.

(1) terminate the withdrawal and reservation of such lands under this title;

(2) constitute official acceptance of administrative jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which such lands shall be opened to the operation of the general land laws, including the mining laws and the mineral and geothermal leasing laws, if appropriate.

(d) RETAINED ARMY JURISDICTION.—Notwithstanding the termination date specified in section 2910, unless and until the Secretary of the Interior accepts jurisdiction of land proposed for relinquishment pursuant to this section, such land shall remain withdrawn and reserved for the Secretary of the Army for the limited purposes of environmental response and restoration actions under section 2906 and continued land management responsibilities pursuant to the integrated natural resources management plan required under section 2904, until such environmental response and restoration activities on those lands are completed.

(e) SEVERABILITY OF FUNCTIONS.—All functions described under this section, including transfers, relinquishments, extensions, and other determinations, may be made on a parcel-by-parcel basis.

SEC. 2913. DELEGATION OF AUTHORITY.

(a) SECRETARY OF THE ARMY.—The Secretary of the Army may delegate to officials in the Department of the Army such functions as the Secretary of the Army may determine appropriate to carry out this title.

(b) SECRETARY OF THE INTERIOR.—The functions of the Secretary of the Interior under this title may be delegated, except that the order described in section 2912(c) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.