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TITLE: CALIFORNIA DESERT PROTECTION ACT OF 1994

TEXT:

[*H5558]

The SPEAKER pro tempore (Mr. Durbin). Pursuant to House Resolution 422 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H. R. 518.

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IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 518) to designate certain lands in the California Desert as **wilderness**, to establish the Death Valley and Joshua Tree National Parks and the Mojave National Monument, and for other purposes, with Mr. Peterson of Florida in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, July 12, 1994, the amendment offered by the gentleman from Tennessee (Mr. Quillen) had been disposed of, and title IV was open to amendment at any point.

Are there further amendments to title IV?

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AMENDMENT OFFERED BY MR. CUNNINGHAM

Mr. CUNNINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cunningham: On page 53, after line 24, insert the following:

SEC. 416 NO ADVERSE AFFECT ON LAND UNTIL ACQUIRED.

With the exception of lands owned by the California State Lands Commission and the Catellus Development Corporation, the owners of all lands acquired pursuant to this Act and the **Wilderness** Act or their designees shall be entitled to full use and enjoyment of such lands and nothing in the Act shall be-

(1) construed to impose any limitation upon any otherwise lawful use of these lands by the

owners thereof or their designees,

(2) construed as authority to defer the submission, review, approval or implementation of any land use permit or similar plan with respect to any portion of such lands, or

(3) construed to grant a cause of action against the owner thereof or their designee, except to the extent that the owners thereof or their designees may, of their own accord, agree to defer some or all lawful enjoyment and use of any such lands for a certain period of time.

Mr. CUNNINGHAM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CUNNINGHAM. Mr. Chairman, yesterday we offered this amendment, and the gentleman from California (Mr. Miller) offered a perfecting amendment. We asked to be protected under the rights of the House so we could work out the language, and we withdrew the amendments.

The gentleman from Colorado (Mr. Allard) , the gentleman from Louisiana (Mr. Tauzin), the gentleman from California (Mr. Miller), and I and the staffs sat back and worked out the language of the perfecting amendment, and the reason is this: Let me go through just briefly what this is about. The problem is that when the Federal Government wants to take land away from private citizens under eminent domain or anything else, quite often there is not the money to pay for the land, and in the meantime that rancher, homeowner, or private owner has to live under the restrictions and cannot improve the land. Therefore, the land goes down in value, and by the time the Federal Government pays that individual the land may be worth a nickel on the dollar.

That is not right, Mr. Chairman, and the gentleman from California (Mr. Miller) agrees with that.

What our amendment did not make clear is that we want in the meantime for the rancher or the private owner to be able to go ahead and utilize the land [*H5559] in a normal way. We do not want, as the gentleman from California (Mr. Miller) suggested in his perfecting amendment, to add toxic waste dumps in that area, which would really deflate the value of the land when the Federal Government took it over, and it would cost billions of dollars to take it over, or to affect the Mining Act on parks.

So we have worked it out, and I think the gentleman from Colorado (Mr. Allard), the gentleman from Louisiana (Mr. Tauzin), the gentleman from California (Mr. Miller), and myself offer a good amendment, and I think we are in agreement with it. I do agree that the Clean Air Act would be a fine addition there.

Mr. Chairman, let me yield to my friend, the gentleman from California (Mr. Miller).

Mr. MILLER of California. Mr. Chairman, let me suggest that I go ahead and offer my amendment to the perfecting amendment first.

The CHAIRMAN. The gentleman from California (Mr. Cunningham) will have to yield back his time in order for the gentleman to do that.

Mr. CUNNINGHAM. Mr. Chairman, I will do that, and I would like the amendment to be issued as the Miller-Allard-Tauzin-Cunningham amendment.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR.

CUNNINGHAM

Mr. MILLER of California. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. Miller of California to the amendment offered by Mr. Cunningham: In the matter proposed to be inserted by the amendment, strike "With the exception" and all that follows and insert "Unless and until acquired by the United States, no lands within the boundaries of **wilderness** areas or National Park System units designated or enlarged by this Act that are owned by any person or entity other than the United States shall be subject to any of the rules or regulations applicable solely to the Federal lands within such boundaries and may be used to the extent allowed by applicable law. Neither the location of such lands within such boundaries nor the possible acquisition of such lands by the United States shall constitute a bar to the otherwise lawful issuance of any federal license or permit other than a license or permit related to activities governed by 16 U.S.C. 460I-22(c). Nothing in this section shall be construed as affecting the applicability of any provision of the Mining in the Parks Act (16 U.S.C. 1901 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.) or regulations applicable to oil and gas development as set forth in 36 CFR 9.B."

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, I want to thank my colleague, the gentleman from California (Mr. Cunningham) for his help in putting together this compromise which I think will clearly ensure that the concerns that he and others and I have about the impacts on private land inholdings when we change the status of Federal lands or create Federal lands around those private properties, that we not inhibit the ability of the property owner to engage in the beneficial use of that property as he might have before the Federal reservation was created.

My amendment goes to two points. Since we are creating these reserves in this bill, we maintain that the mining operations there would be subject to mining in the park, which has been on the books for many years, and we also make sure the generic provision in the law that prohibits one from operating a hazardous waste site facility on an inholding within the parks not be overridden. But other than that, we make it very clear that one will not be prejudiced nor will one be barred from getting a permit. That person might have to go to the local county or the State or some other local jurisdiction to get it because of the fact that they are an inholding. And we also make it clear we do not want the bureaucracy to muscle in on inholdings, trying to extend to those private properties restrictions that the Congress in its wisdom chose not to extend to those properties.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. Yes, I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman from California for yielding.

I was asked not to negotiate on this bill, and the reason that I decided to do it is that the gentleman from California (Mr. Miller) and I have worked, not only on education and labor matters, but on other issues together, and we may disagree on issues, but not once has he ever said we would sit down and work out something that has not happened, and I appreciate that.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman, and I yield back the balance of my time.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I really was not going to seek time, but I would like to have some exchange with the chairman of the committee, if I may.

The CHAIRMAN. The gentleman from California (Mr. Lewis) is recognized for 5 minutes.

Mr. LEWIS of California. Mr. Chairman, in order to clarifying precisely the gentleman's amendment, as well as the Cunningham-Huffington amendment, does relative to inholders, let us assume that the inholder goes to a local county-and it largely would be county authority-and has a proposed change or use of his property and the county signs off on it but in turn for one reason or another the department does not. How does that procedure work? What actually happens?

Mr. MILLER of California. Mr. Chairman, if the gentleman will yield, I think in fact the department has no authority on whether to sign off or not sign off on it, unless it had to do with these two provisions.

If you go down to the county and say, "I want to remodel my home" or "I want to add a barn onto my farm," if you need those permits at the local level, that is between you and the county. The purpose of this amendment is to suggest that they do not get to sign off on that. If you were going to build a power plant, they could come in under applicable law. If there are 404 permits or endangered species or clean air issues, they could come in under those provisions, but they can do that today.

Mr. LEWIS of California. So, Mr. Chairman, the gentleman is suggesting that outside of very special circumstances like a power company or something that is directly affected by established Federal law, that local planning authority would totally control that planning process?

Mr. MILLER of California. The Park Service could go in. I guess the Park Service could go in and complain about the impact if you were going to put in 500 homes, for instance.

Mr. LEWIS of California. Sure.

Mr. MILLER of California. But that is their standing. Like any other entity, they could come into that process, but they do not get special status in that process to make determinations because of the Federal lands around that facility. If they can make their case that this is incompatible or what have you, that is fine, but that in itself is not the basis to deny the permit. They do not have that special standing.

Mr. LEWIS of California. Mr. Chairman, as the chairman of the committee knows, in the other body a portion of the eastern Mojave, the Landfair Valley was left out of the bill, in no small part because of a very sizable number of private property owners, inholders, or potential inholders. So the gentleman is suggesting that where those people would be following a normal development process, that is, building a home or a barn or otherwise, they would be totally under the direction of and be able to get response from the local planning authority that is already well-established?

Mr. MILLER of California. Mr. Chairman, the gentleman is correct. Again, within the guidelines and within applicable law, the Park Service can participate, and if it rose to such an occasion that the Park Service thought it was inconsistent-

Mr. LEWIS of California. Then they could testify?

Mr. MILLER of California. Then they could go in and try to condemn the property, as we pointed out yesterday.

Mr. LEWIS of California. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Miller) to [*H5560] the amendment offered by the gentleman from California (Mr. Cunningham).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Cunningham) as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

If not, the Clerk will designate title V.

The text of title V is as follows:

TITLE V-NATIONAL PARK **WILDERNESS**

DESIGNATION OF **WILDERNESS** Sec. 501. The following lands are hereby designated as **wilderness** in accordance with the **Wilderness** Act (78 Stat. 890; 16 U.S.C. 1131 et seq.) and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the **Wilderness** Act:

(1) Death Valley National Park **Wilderness**, comprising approximately three million one hundred seventy-nine thousand four hundred and eighteen acres, as generally depicted on 23 maps entitled "Death Valley National Park Boundary and **Wilderness**", numbered in the title one through twenty-three, and dated May 1994 or prior, and three maps entitled "Death Valley National Park **Wilderness**", numbered in the title one through three, and dated May 1994 or prior, and which shall be known as the Death Valley **Wilderness**.

(2) Joshua Tree National Park **Wilderness** Additions, comprising approximately one hundred thirty-one thousand seven hundred and eighty acres, as generally depicted on four maps entitled "Joshua Tree National Park Boundary and **Wilderness-Proposed**", numbered in the title one through four, and dated October 1991 or prior, and which are hereby incorporated in, and which shall be deemed to be a part of the Joshua Tree **Wilderness** as designated by Public Law 94-567.

(3) Mojave National Park **Wilderness**, comprising approximately six hundred ninety-four thousand acres, as generally depicted on ten maps entitled "Mojave National Park Boundary and **Wilderness-Proposed**", numbered in the title one through ten, and dated May 1994 or prior, and seven maps entitled "Mojave National Park **Wilderness-Proposed**", numbered in the title one through seven, and dated May 1994 or prior, and which shall be known as the Mojave **Wilderness**.

(4) Upon cessation of all uses prohibited by the **Wilderness** Act and publication by the Secretary in the Federal Register of notice of such cessation, potential **wilderness**, comprising approximately six thousand eight hundred and forty acres, as described in "1988 Death Valley National Monument Draft General Management Plan Draft Environmental Impact Statement" (hereafter in this title referred to as "Draft Plan") and as generally depicted on a map in the Draft

Plan entitled "**Wilderness** Plan Death Valley National Monument", dated January 1988, shall be deemed to be a part of the Death Valley **Wilderness** as designated in paragraph (1). Lands identified in the Draft Plan as potential **wilderness** shall be managed by the Secretary insofar as practicable as **wilderness** until such time as said lands are designated as **wilderness**.

FILING OF MAPS AND DESCRIPTIONS Sec. 502. Maps and a legal description of the boundaries of the areas designated in section 501 of this title shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, and in the Office of the Superintendent of each area designated in section 501. As soon as practicable after this title takes effect, maps of the **wilderness** areas and legal descriptions of their boundaries shall be filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, and such maps and descriptions shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such maps and descriptions.

ADMINISTRATION OF WILDERNESS AREAS Sec. 503. The areas designated by section 501 of this title as **wilderness** shall be administered by the Secretary in accordance with the applicable provisions of the **Wilderness** Act governing areas designated by that title as **wilderness**, except that any reference in such provision to the effective date of the **Wilderness** Act shall be deemed to be a reference to the effective date of this title, and where appropriate, and reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The Clerk reads as follows:

Amendment offered by Mr. Vento : Page 54, lines 13 and 14, strike "one hundred seventy-nine thousand four hundred and eighteen acres" and in lieu thereof insert "one hundred sixty-two thousand one hundred and thirty-eight acres".

Mr. VENTO. Mr. Chairman, this is a simple amendment. It would reduce the **wilderness** designation within the enlarged Death Valley National Park by about 17,280 acres.

The result will be to leave a nonwilderness zone along the southern boundary of the national park, where the park adjoins the Fort Irwin National Training Center.

This change is desired by the Defense Department. They have indicated that they are concerned about difficulties that might arise in connection with policing of the Fort Irwin boundary if the adjacent national park lands were designated as **wilderness**.

Frankly, Mr. Chairman, I am not certain that the Defense Department's concerns are not exaggerated. However, in the interests of removing doubts about this point, and to make this portion of the bill more like the corresponding portion of the version passed by the Senate, I urge the House to adopt this amendment. ;1110

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I thank the gentleman for yielding to me.

The minority agrees with this amendment. We think it is a good amendment, and we go along with it.

Mr. VENTO. Mr. Chairman, I thank the gentleman for his support and interest.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. Vento).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title V?

If not, the Clerk will designate title VI.

The text of title VI is as follows:

TITLE VI-MISCELLANEOUS PROVISIONS

TRANSFER OF LANDS TO RED ROCK CANYON STATE PARK Sec. 601. Upon enactment of this title, the Secretary of the Interior shall transfer to the State of California certain lands within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately twenty thousand five hundred acres, as generally depicted on two maps entitle "Red Rock Canyon State Park Additions 1" and "Red Rock Canyon State Park Additions 2", dated May 1991, for inclusion in the State of California Park System. Should the State of California cease to manage these lands as part of the State Park System, ownership of the lands shall revert to the Department of the Interior to be managed as part of the California Desert Conservation Area to provide maximum protection for the area's scenic and scientific values.

DESERT LILY SANCTUARY Sec. 602. (a) There is hereby established the Desert Lily Sanctuary within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately two thousand forty acres, as generally depicted on a map entitled "Desert Lily Sanctuary", dated February 1986. The Secretary of the Interior shall administer the area to provide maximum protection to the desert lily.

(b) Subject to valid existing rights, Federal lands within the sanctuary, and interests therein, are withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

LAND TENURE ADJUSTMENTS Sec. 603. In preparing land tenure adjustment decisions within the California Desert Conservation Area, of the Bureau of Land Management, the Secretary shall give priority to consolidating Federal ownership within the national park units and **wilderness** areas designated by this Act.

DISPOSAL PROHIBITION Sec. 604. Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Agriculture may not dispose of any lands within the boundaries of the **wilderness** or parks designated under this Act or grant a right-of-way in any lands within the boundaries of the **wilderness** designated under this Act. Further, none of the lands within the boundaries of the **wilderness** or parks designated under this Act shall be granted to or otherwise made available for use by the Metropolitan Water District and any other agencies or persons pursuant to the Boulder Canyon Project Act (43 U.S.C. 617-619b) or any similar acts.

MANAGEMENT OF NEWLY ACQUIRED LANDS Sec. 605. Any lands within the boundaries of a **wilderness** area designated under this Act which are acquired by the Federal Government shall become part of the **wilderness** area within which they are located and shall be managed in accordance with all the provisions of this Act and other laws applicable to such **wilderness** area.

NATIVE AMERICAN USES Sec. 606. In recognition of the past use of the parks and **wilderness** areas designed under this Act by Indian people for traditional cultural and religious purposes, the

Secretary shall ensure access to such parks and **wilderness** areas by Indian people for such traditional cultural and religious purposes. In implementing this section, the Secretary, upon the request of an Indian tribe or Indian religious community, shall temporarily close to the general public use of one or more specific portions of park or **wilderness** areas in order to protect the privacy of traditional cultural and religious activities in such areas by Indian people. Such access shall [*H5561] be consistent with the purpose and intent of Public Law 95-341 (42 U.S.C. 1996) commonly referred to as the "American Indian Religious Freedom Act", and with respect to areas designated as **wilderness, the Wilderness Act** (78 Stat. 890; 16 U.S.C. 1131).

WATER RIGHTS Sec. 607. (a) With respect to each **wilderness** area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this Act. The priority date of such reserved water rights shall be the date of enactment of this Act.

(b) The Secretary of the Interior and all other officers of the United States shall take all steps necessary to protect the rights reserved by this section, including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of California in which the United States is or may be joined and which is conducted in accordance with section 208 of the Act of July 10, 1952 (66 Stat. 560, 43 U.S.C. 666; commonly referred to as the McCarran Amendment).

(c) Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of California on or before the date of enactment of this Act.

(d) The Federal water rights reserved by this Act are specific to the **wilderness** areas located in the State of California designated under this Act. Nothing in this Act related to the reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made thereto.

STATE SCHOOL LANDS Sec. 608. (a) Upon request of the California State Lands Commission (hereinafter in this section referred to as the "Commission"), the Secretary shall enter into negotiations for an agreement to exchange Federal lands or interests therein on the list referred to in subsection (b)(2) for California State School Lands (hereinafter in this section referred to as "State School Lands") or interests therein which are located within the boundaries of one or more of the **wilderness** areas or park units designated by this Act. The Secretary shall negotiate in good faith to reach a land exchange agreement consistent with the requirements of section

206 of the Federal Land Policy and Management Act of 1976.

(b) Within six months after the date of enactment of this Act, the Secretary shall send to the Commission and to the Committees a list of the following:

(1) The State School Lands or interests therein (including mineral interests) which are located within the boundaries of the **wilderness** areas or park units designated by this Act.

(2) Lands under the Secretary's jurisdiction to be offered for exchange, including in the following priority:

(A) Lands with mineral interests, including geothermal, which have the potential for commercial development but which are not currently under mineral lease or producing Federal mineral revenues.

(B) Federal lands in California managed by the Bureau of Reclamation that the Secretary determines are not needed for any Bureau of Reclamation project.

(C) Any public lands in California that the Secretary, pursuant to the Federal Land Policy and Management Act of 1976, has determined to be suitable for disposal through exchange.

(c)(1) If an agreement under this section is for an exchange involving five thousand acres or less of Federal land or interests therein, or Federal lands valued at less than \$ 5,000,000, the Secretary may carry out the exchange in accordance with the Federal Land Policy and Management Act of 1976.

(2) If an agreement under this section is for an exchange involving more than five thousand acres of Federal lands or interests therein, or Federal land valued at more than \$ 5,000,000, the agreement shall be submitted to the Committees, together with a report containing-

(A) a complete list and appraisal of the lands or interests in lands proposed for exchange; and

(B) a determination that the State School Lands proposed to be acquired by the United States do not contain any hazardous waste, toxic waste, or radioactive waste.

(d) An agreement submitted under subsection (c)(2) shall not take effect unless approved by a joint resolution enacted by the Congress.

(e) If exchanges of all of the State School Lands are not completed by October 1, 2004, the Secretary shall adjust the appraised value of any remaining inholdings consistent with the provisions of section 206 of the Federal Land Management Policy Act of 1976. The Secretary shall establish an account in the name of the Commission in the amount of such appraised value. Title to the State School Lands shall be transferred to the United States at the time such account is credited.

(f) The Commission may use the credit in its account to bid, as any other bidder, for excess or surplus Federal property to be sold in the State of California in accordance with the applicable laws and regulations of the Federal agency offering such property for sale. The account shall be adjusted to reflect successful bids under this section or payments or forfeited deposits, penalties, or other costs assessed to the bidder in the course of such sales. In the event that the balance in the account has not been reduced to zero by October 1, 2009, there are authorized to be appropriated to the Secretary for payment to the California State Lands Commission funds equivalent to the balance remaining in the account as of October 1, 2009.

(g) As used in this section, the term "Committees" means the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

EXCHANGES Sec. 609. (a) Upon request of the Catellus Development Corporation, its subsidiaries or successors in interest (hereafter in this section referred to as "Catellus"), the Secretary shall enter into negotiations for an agreement or

agreements to exchange Federal lands or interests therein on the list referred to in subsection (b)(2) of this section for lands of Catellus or interests therein which are located within the boundaries of one or more of the **wilderness** areas or park units designated by this Act.

(b) Within six months after the date of enactment of this Act, the Secretary shall send to Catellus and to the Committees a list of the following:

(1) Lands of Catellus or interests therein (including mineral interests) which are located within the boundaries of the **wilderness** areas or park units designated by this Act.

(2) Lands under the Secretary's jurisdiction to be offered for exchange, in the following priority:

(A) Lands, including lands with mineral and geothermal interests, which have the potential for commercial development but which are not currently under lease or producing Federal revenues.

(B) Federal lands managed by the Bureau of Reclamation that the Secretary determines are not needed for any Bureau of Reclamation project.

(C) Any public lands that the Secretary, pursuant to the Federal Land Policy and Management Act of 1976, has determined to be suitable for disposal through exchange.

(c)(1) If an agreement under this section is for (A) an exchange involving lands outside the State of California, (B) more than 5,000 acres of Federal land or interests therein in California, or (C) Federal lands in any State valued at more than \$ 5,000,000, the Secretary shall provide to the Committees a detailed report of each such land exchange agreement.

(2) All land exchange agreements shall be consistent with the Federal Land Policy and Management Act of 1976.

(3) Any report submitted to the Committees under this subsection shall include the following:

(A) A complete list and appraisal of the lands or interests in land proposed for exchange.

(B) A complete list of the lands, if any, to be acquired by the United States which contain any hazardous waste, toxic waste, or radioactive waste which requires removal or remedial action under Federal or State law, together with the estimated costs of any such action.

(4) An agreement under this subsection shall not take effect unless approved by a joint resolution enacted by the Congress.

(d) The Secretary shall provide the California State Lands Commission with a one hundred eighty-day right of first refusal to exchange for any Federal lands or interests therein, located in the State of California, on the list referred to in subsection (b)(2). Any lands with respect to which a right of first refusal is not noticed within such period or exercised under this subsection shall be available to Catellus for exchange in accordance with this section.

(e) On January 3, 1999, the Secretary shall provide to the Committees a list and appraisal consistent with the Federal Land Policy and Management Act of 1976 of all Catellus lands eligible for exchange under this section for which an exchange has not been completed. With respect to any of such lands for which an exchange has not been completed by October 1, 2004 (hereafter in this section referred to as "remaining lands"), the Secretary shall establish an account in the name of Catellus (hereafter in this section referred to as the "exchange account"). Upon the transfer of title by Catellus to all or a portion of the remaining lands to the United States, the Secretary shall credit the exchange account in the amount of the appraised value of the transferred remaining lands at the time of such transfer.

(f) Catellus may use the credit in its account to bid, as any other bidder, for excess or surplus Federal property to be sold in the State of California in accordance with

the applicable laws and regulations of the Federal agency offering such property for sale. The account shall be adjusted to reflect successful bids under this section or payments or forfeited deposits, penalties, or other costs assessed to the bidder in the course of such sales. Upon approval by the Secretary in writing, the credits in Catellus's exchange account may be transferred or sold in whole or in part by Catellus to any other party, thereby vesting such party with all the rights formerly held by Catellus. The exchange account shall be adjusted to reflect successful bids under this section or payments or forfeited deposits, penalties, or other costs assessed to the bidder in the course of such sales.

(g)(1) The Secretary shall not accept title pursuant to this section to any lands unless such title includes all right, title, and interest in and to the fee estate.

(2) Notwithstanding paragraph (1), the Secretary may accept title to any subsurface estate where the United States holds title to the surface estate.

(3) This subsection does not apply to easements and rights-of-way for utilities or roads.

(h) In no event shall the Secretary accept title under this section to lands which contain any hazardous waste, toxic waste, or radioactive waste which requires removal or remedial action under Federal or State law unless such remedial action has been completed prior to the transfer.

(i) For purposes of the section, any appraisal shall be consistent with the provisions of section 206 of the Federal Land Policy and Management Act of 1976.

(j) As used in this section, the term "Committees" means the Committee on Natural [*H5562] Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

AMENDMENTS OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. Richardson:

Page 59, line 22, insert "(a)" after "'606."

Page 60, after line 11, insert the following: (b)(1) The Secretary, in consultation with the Timbisha Shoshone Tribe and relevant Federal agencies, shall conduct a study, subject to the availability of appropriations, to identify lands suitable for a reservation for the Timbisha Shoshone Tribe that are located within the Tribe's aboriginal homeland area.

(2) Not later than two years after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Energy and Natural Resources and the Committee on Indian Affairs of the Senate, and the Committee on Natural Resources of the House of Representatives on the results of the study conducted under paragraph (1).

Page 62, after line 25, insert the following:

(3) Any other Federal land, or interest therein, within the State of California, which is or becomes surplus to the needs of the Federal Government. The Secretary may exclude, in his discretion, lands located within or contiguous to, the exterior boundaries of lands held in trust for a federally recognized Indian tribe located in the State of California.

Page 66, after line 2, insert the following:

(3) Any other Federal land, or interest therein, within the State of California, which is or becomes

surplus to the needs of the Federal Government. The Secretary may exclude, in his discretion, lands located within, or contiguous to, the exterior boundaries of lands held in trust for a federally recognized Indian tribe located in the State of California.

Mr. RICHARDSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the Record .

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. RICHARDSON. Mr. Chairman, The en bloc amendments I am offering would be added to title VI of this bill.

The first amendment would amend section 606 entitled "Native American Uses" to allow for a 2-year study to be completed by the Secretary of Interior in consultation with the Timbisha Shoshone Tribe of lands which would be suitable for a reservation for the tribe. The lands to be considered are to come from aboriginal homeland areas of the Timbisha Shoshone Tribe.

The Timbisha Shoshone Tribe has been a federally recognized tribe since 1983 and has approximately 200 members. The recognition did not, however, convey a land base to the tribe. Without a land base the tribe is unable to pursue tribal self-determination or social and economic development for its members. The ancestral homeland of the Timbisha Shoshone includes lands in and surrounding the Death Valley area of California.

The Timbisha Shoshone Tribe's ancestral homelands are found on lands within the boundaries of the Death Valley National Monument and Death Valley National Park as described in the California Desert Protection Act of 1994, and as more particularly described in the "Death Valley Timbisha Shoshone Band of California: Final Determination for Federal Acknowledgment" (Fed. Reg. vol. 47 at page 50109 (Nov. 4, 1982)). These lands are part of the tribe's aboriginal territory, but have been held by the Federal Government for other uses since 1933, including lands of the National Park Service, Bureau of Land Management, and other Federal departments and agencies.

The Timbisha Shoshone Tribe is the successor and direct descendant of the Panamint Shoshone whose traditional ancestral homeland for thousands of years encompassed a vast territory of hundreds of square miles in the Death Valley, CA area, and extending into western Nevada. The Timbisha Shoshone Tribe resides at the will of the U.S. Department of Interior, National Park Service, on a 40-acre tract of land managed and administered by the National Park Service.

My amendment does not put 1 acre of land into trust for the tribe. It simply authorizes, subject to the availability of appropriations, a study to identify lands which the tribe and the Secretary of Interior find to be appropriate for use as a reservation.

The second and third amendments I am offering give the Secretary of Interior the discretion to exclude from the lists referred to in section 608 and section 609 any lands which become surplus and are within or contiguous to any existing Indian tribal trust lands. Under sections 608 and 609 the Secretary is required to compile a list of any lands which may be deemed surplus by the Secretary and, therefore, eligible for possible trade with parcels inside areas which this legislation intends to designate as **wilderness** or national park units.

Again, these amendments would not provide any Indian tribe with 1 acre of land. They would merely allow the Secretary of Interior the ability to withhold a particular surplus parcel that is within or contiguous to the exterior boundary of existing trust land. Currently, some Indian trust land in California is checker-boarded with private or Federal land included within the trust land. If and when, this non-Indian land becomes available it may be more appropriate for that land to be

conveyed to the tribe instead of to another entity which would increase problems related to the management of checker-boarded areas.

The native Americans of California deserve to have a few protections in this legislation and I believe my amendments allow for this. I urge my colleagues to support my amendments.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding to me.

I think it is probably appropriate to require a study to see if a reservation could be established for the Timbisha Shoshones. I think that we should be careful not to raise undue expectations about the likelihood that Congress will agree to take lands out of parks, out of forests, out of wildlife refuges or **wilderness** areas once designated. That would be a concern.

The intent here, as I understand, and I would like the gentleman to respond to this, is that in order for anything to be established, we would have to come back and act on it. Congress would have to act on that particular matter.

Mr. RICHARDSON. Mr. Chairman, let me say that the gentleman is correct, but I think what is very important to the Subcommittee on Native American Affairs is to look at the entire aboriginal lands and keep that option open.

Mr. VENTO. Mr. Chairman, if the gentleman will continue to yield, I think that if we excluded such lands in fact, as Members know, the gentleman, we have exchanged, maybe we should exclude parks, exclude **wildernesses**, I think that just tortures the logic of the study. In fact, we are better off having them included for the purpose of the study and learn if there are substantial claims within a park for example. We would hope that, for instance, for religious purposes or others that they would apply to the general law. But we should have the information and we would rather have it formally than trying to structure a study that would end up being incomplete.

Mr. RICHARDSON. Mr. Chairman, the gentleman is correct. We do want that.

Mr. VENTO. Mr. Chairman, I agree with the gentleman, and I urge adoption of the amendment.

AMENDMENTS OFFERED BY MR. MILLER OF CALIFORNIA TO THE AMENDMENTS OFFERED BY MR. RICHARDSON

Mr. MILLER of California. Mr. Chairman, I offer amendments to the amendments.

The Clerk read as follows:

Amendments offered by Mr. Miller of California to the amendments offered by Mr. Richardson:

In the matter proposed to be inserted on page 62 after line 25, strike "The Secretary" and all that follows and insert after paragraph (3) as contained in such matter the following:

The Secretary may exclude, in his discretion, from such list lands located within, or contiguous to, the exterior boundaries of lands held in trust for a federally recognized Indian tribe located in the State of California. [*H5563]

In the matter proposed to be inserted on page 66 after line 2, strike "The Secretary" and all that follows and insert after paragraph (3) as contained in such matter the following:

The Secretary may exclude, in his discretion, from such list lands located within, or contiguous to, the exterior boundaries of lands held in trust for a federally recognized Indian tribe located in the State of California.

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the Record .

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, this amendment clarifies that the Secretary of the Interior has discretionary authority to exclude from the negotiated exchanges lands which may be adjacent to tribal trust lands. It provides an assurance to Indian tribes that their interests will be considered in the decisions regarding which lands will be included in the exchanges, but it leaves those decisions within the discretion of the Secretary.

Mr. Chairman, the amendment is technical in nature and I urge my colleagues to support it.

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, I thank the gentleman for yielding to me.

I think this is a very constructive amendment. What it would do is give discretion to the Secretary of the Interior. Naturally, we would accept it.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

Mr. Chairman, first, I would like to express my appreciation to my colleague, the gentleman from New Mexico (Mr. Richardson) for this amendment. He is addressing himself to a very sensitive problem that exists within my district, specifically dealing with the Timbisha Shoshone tribe.

The gentleman from New Mexico (Mr. Richardson) is the chairman of the Subcommittee on Native American Affairs and has been extremely sensitive to these problems as we go about significant public policy changes within my district.

First, let me say that the Timbisha Shoshone tribe was originally kicked off of its land in 1933, as the Death Valley National Monument was established.

Since that time, to say the least, they have been frustrated by their relationship with the Federal Government.

The chairperson, Roy Kennedy, as well as the heads of the other tribes in the region, is very supportive of this approach.

Essentially what the gentleman from New Mexico (Mr. Richardson) and the gentleman from California (Mr. Miller) are attempting to do here is to make certain that the Timbisha Shoshone tribe don't lose one more time to the Federal Government. It is my strong desire that the Department of Interior is sensitive to not only the history of the tribe but their current problem that will result from creating a National Park in Death Valley.

The Timbisha Shoshone tribe has been more than patient with the Federal Government in connection with their relations with this Department. I urge the Director of the Park Service to go forward with this study to find the tribe a permanent land base, and I urge the House to support this amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. Miller) to the amendments offered by the gentleman from New Mexico (Mr. Richardson).

The amendments to the amendments were agreed to.

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The CHAIRMAN. The question is on the amendments offered by the gentleman from New Mexico (Mr. Richardson), as amended.

The amendments, as amended, were agreed to.

The CHAIRMAN. Are there further amendments to title VI?

AMENDMENT OFFERED BY MR. ALLARD

Mr. ALLARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Allard: On page 61, after line 13, insert the following:

(e) Nothing in this Act shall be construed to affect the operation of federally owned dams located on the Colorado River in the Lower Basin.

(f) Nothing in this Act shall be construed to amend, supersede, or preempt any State law, Federal law, interstate compact, or international treaty pertaining to the Colorado River (including its tributaries) in the Upper Basin, including, but not limited to the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those rivers.

(g) With respect to the Havasu and Imperial **wilderness** areas designated by section 111 of Title I of this Act, no rights to water of the Colorado River are reserved, either expressly, impliedly, or otherwise.

Mr. ALLARD. Mr. Chairman, I rise today to offer an amendment to simply clarify the intent of Congress and provide protections for the Upper Colorado River Basin water entitlements. It ensures that there would be no undesirable impact on the Colorado River and its operations as a consequence of this act.

Specifically, this amendment does three things. First, it specifies that the federally owned dams located on the Colorado River in the Lower Basin would not be affected. Second, it protects State water laws and the interstate compacts pertaining to the Colorado River in the Upper Basin. Third, it ensures that no Federal rights to the Colorado River are reserved, expressly or impliedly, with respect to the Havasu and Imperial **wilderness** areas.

Mr. Chairman, I want to point out that this language is NOT new. It was also included in the Arizona Desert **Wilderness** Act, passed in October 1990-Public Law 101-628. When this bill came before the House, the Members wisely included language to ensure that there would be no adverse impact to the Colorado River operations.

As you know, the Havasu and Imperial **wilderness** areas straddle the Colorado River and the Arizona-California State line. When these refuges were established as **wilderness** on the Arizona side with the Arizona **Wilderness** Act, provided that no rights to the water of the Colorado River were reserved expressly or impliedly. This was done in recognition of the fact that the Havasu and Imperial designations were in close geographic proximity to the Colorado River and while the boundaries had been drawn at the high water mark and any effect on the Colorado River was thought by them unlikely, Arizona's Senator's DeConcini and McCain nonetheless, to avoid any confusion, unequivocally stated in the bill that no such rights were reserved.

These provisions were put in the act and assurances were also given during the debates that the act was not to supersede any existing compacts, treaties, Federal statutes of Supreme Court decrees governing interstate or intrastate water allocations. The law of the river, which included the operations of existing and future dams in either the upper or lower basin, was to be protected and not affected as a consequence of the **wilderness** designations.

Congress now has the California Desert Protection Act before it and this proposal also designates **wilderness** in the California portions of the Havasu and Imperial National Wildlife Refuges, on the California side of the Colorado River. The Senate, recognizing the desirability and need for treating both sides of the river in the same fashion, included the same protections for the Colorado River in its recently passed S. 21. The common treatment thus accorded both halves of the two refuges lying astride the Colorado River along the Arizona-California border is important not only from the management and administration aspects but in addition, as the Senate committee report observes-at p. 32-these two refuges already have a reserved water right which is unaffected by the legislation. That right has already been quantified by the decree of the U.S. Supreme Court at the conclusion of the Arizona versus California litigation. 376 U.S. 340 at 346 (1964), with any consumptive use of water within a State to be charged to that State's apportionment of the waters of the Colorado River. While the water rights thus accorded and quantified by the Court were for the lands as wildlife [*H5564] refuges, certainly their additional designation as **wilderness** should not require any greater quantities of water. It would accordingly be duplicative as well as totally inconsistent with congressional action with respect to the Arizona lands to now place a Federal general reserved water right on the California side of the river.

To say that the Havasu and Imperial **wilderness** boundaries have been drawn so as not to include the Colorado River is hardly determinative of the concerns that have been expressed throughout both the Upper and Lower Basins-which include significant portions of seven States-Arizona, California, Colorado, New Mexico, Nevada, Utah and Wyoming. The only significant water source in the two affected areas is the Colorado River itself, including its impoundments and underflow. Uses of waters in these two areas would necessarily be supplied from the Colorado River. Accordingly, the protections provided by Congress in both the Arizona Act as well as by the Senate in acting on the California Desert bill-in S. 21-should be included in any final action by the Congress on the California Desert legislation. The Allard-Thomas language would provide consistency for the treatment of the Colorado with respect to the Havasu and Imperial **wilderness** areas in California.

Also noteworthy is the fact that the Allard-Thomas language is included in report language of H.R. 518. However, we do not believe report language is sufficient, as it is not legally binding. If the authors of this bill want to prevent the disruption of the Colorado River compact and they felt it was important enough to include in report language, then there should be no reason why this cannot be clarified in the bill. It is obviously a very important point for those of us in the West where water is our most precious commodity and this bill does not provide enough certainty for Members who represent States that supply water throughout the West. Without the Allard-Thomas language the bill would unravel the extremely complicated and fragile Colorado River Compact worked out by the States, California, Arizona, Nevada, Utah, New Mexico, Colorado and Wyoming.

Our concerns have been heightened by the discussion of boundaries and what constitutes water of the Colorado River contained in the Bureau of Reclamation's draft regulations for administering entitlements to Colorado River water in the lower basin, just released May 6. The Bureau says they have developed a method with the U.S. Geological Survey to identify wells yielding water originating from the river. This method "employs a presumption that all water beneath the lower Colorado River floodplain" and certain areas adjacent to it are believed to be hydrologically connected to mainstream Colorado River water, which will be subject to these regulations and will have to have a contract for the water with the Secretary of the Interior.

The details of these proposed regulations for simply defining the boundaries of the mainstream are extremely involved and comprehensive, not only with respect to the surface, but to the subsurface. One simply cannot be assured that any **wilderness** boundary that has been drawn excludes the impact of a Federal reserved right, unless any reserved right to the water of the Colorado is itself denied, as provided in the Arizona Act of 1990, and in S. 21. Even users of waters from wells in these areas as well as all areas upstream on the Colorado River could otherwise be adversely affected.

Before Statehood in 1876 Colorado submitted its Constitution to Congress to be ratified. In connection with water, considered the most precious and scarce resource in the West, the Colorado Constitution provided, "The right to divert the unappropriated waters of any natural stream to beneficial use shall never be denied."

Ever since that time Colorado has sought to protect its water resources from any Federal intrusion. The importance of water resource management on the Western way of life is not widely understood beyond the arid West and the technical intricacies involved in such management are even less understood. Any impact on the ability of Colorado and her sister States to maintain state control over water decisions, which a Federal reservation of water can entail, has been resisted because such reservations could prohibit Colorado and other Basin States from protecting their interests under the interstate compacts on the Colorado which are so important to them.

Some States, Nevada for example, provide that groundwater is subject to appropriation in a similar manner as surface water. A broad Federal reservation could indeed interfere with and possibly preclude a State official from approving an application for groundwater in any areas adjacent to a **wilderness** holding such a reservation.

The draft regulations of the Bureau of Reclamation call all water below the floodplain of the lower Colorado River and below certain elevations in adjacent areas to be water of the Colorado River, which must have contact with the Secretary of the Interior.

In light of these proposals, the only way to assure a Federal reserved right cannot impact an individual water right or a State's Compact entitlement is to deny that a reserved right to water of the Colorado River and its tributaries, either expressed or implied, is being created.

In summary, the protections provided by Congress in the Senate version of this bill, and the Arizona Act should be included in any final action by the Congress on the California Desert legislation.

Mr. MILLER of California. Mr. Chairman, we have had a chance to look at the amendment. We think the amendment does no harm, and we are prepared to accept it.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, we had considered this amendment in the subcommittee and tried to persuade the gentleman from Colorado (Mr. Allard) that because of the way the boundaries are now drawn with regard to the California **wilderness**, that they are outside the watershed, our feeling or our belief was that there was no impact.

Mr. Chairman, I agree with the gentleman from California (Mr. Miller) that it does give a measure of confidence, apparently it is in the Senate bill, and the gentleman from Colorado (Mr. Allard) and his allies continue to press in terms of providing for additional reassurance. I do not think it does any harm in terms of the basic language, although I do not know that it affords any additional protection, because the boundaries are ultimately outside of it.

In light of the comity here on the floor today, Mr. Chairman, I am willing to go along with the chairman of the committee and accept the amendment.

Mr. ALLARD. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Colorado.

Mr. ALLARD. Mr. Chairman, I would like thank both gentleman for working with this particular Member on this issue, and am willing to assure that these Members in the Colorado River Compact States water rights are protected.

Mr. THOMAS of Wyoming. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Wyoming.

Mr. THOMAS of Wyoming. Mr. Chairman, as a cosponsor, I, too, want to thank the gentleman from California. Again, I think it is important that this language be in the bill, but it is also important as a generic statement in terms of western water that there are not reserved water rights here, so I think it is a very important part of the this bill, and I appreciate the sponsors accepting this language.

Mr. Chairman, I am pleased to offer this amendment with the gentleman from Colorado. As you know, the Colorado River is extremely important to all of the States in the West.

Water is an essential part of life for many folks living in the arid West. The Colorado River is a vital lifeline for many folks throughout this region.

Almost 40 years ago, the States in the Colorado River Basin reached and agreement on how this valuable resource should be administered. The Colorado River compact has served the western States well and balanced the competing needs for water in this area.

What this amendment is designed to do is protect that important agreement and ensure that it is not destroyed by this legislation. [*H5565]

The amendment offered by myself and Mr. Allard closely resembles an amendment to the Arizona Desert **Wilderness** Act, which was approved in 1990.

It simply states that nothing in this bill would give the Federal Government a reserved water right on the Colorado River. It also states that the Havasu and Imperial **Wilderness** areas, which straddle the river, do not have any reserved right to the waters of the Colorado River.

The opponents of this amendment will tell you that this is a nonissue. That there is no Federal reserved water right to the Colorado River given in the desert protection bill.

However, I disagree. The very fact the legislation does not state that there is no Federal

reserved water right to the Colorado River is troublesome. We have all seen how the Federal Government works. Once the feds get their foot in the door, they will trample on the rights of the States.

In addition, the opponents of this amendment claim the Havasu and Imperial **Wilderness** boundaries have been drawn so that the Colorado River is not affected. This is hardly conclusive and could change with fluctuations in the river's width and breadth.

The Colorado River is the only significant water source in these two areas. To say these **wilderness** areas will not be affected by the Colorado River is highly misleading.

Mr. Chairman, this amendment is sound and will remove any misconceptions about the Federal Government having a reserved water right on the Colorado River. It is vital for the people of the West to have this language included in this bill.

The Senate has already included this language in its version of the California Desert Protection Act, and I urge the House to do the same.

Support the Thomas-Allard amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. Allard).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title VI?

AMENDMENT OFFERED BY MR. CUNNINGHAM

Mr. CUNNINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cunningham : Page 64, strike line 22 and all that follows through line 9 on page 69 (all of section 609).

Mr. CUNNINGHAM. Mr. Chairman, this amendment strikes from the bill, section 609, a provision which grants special, and I repeat special, treatment to one landholder and one landowner only that is affected by this bill. My colleague, the gentleman from California (Mr. Huffington), originally intended to offer this amendment. Unfortunately, due to a recent operation, and that was in his eye, he is unable to be here today. I want to commend him for his work on this important amendment which would eliminate an egregious and unfair special interest provision from the bill.

Section 609 permits one landowner and one landowner only to benefit from the unique land exchange arrangement with the Government under this bill. That landowner is the Catellus Development Corp., a multibillion-dollar real estate concern. While other landowners affected by this bill will become subject to the Department of the Interior's cumbersome and often unfair compensation procedures, that will not be the case for the multibillion-dollar Catellus Corp.

Mr. Chairman, unless this amendment is adopted, Catellus will be permitted to swap all of the 355,000 acres. Let me give the Members an idea. In the bill, they do not distinguish between excess and surplus land. Excess land by the Federal Government, if the Federal Government has no use, they can offer it up to another Federal agency. If they do not want it, then it is considered surplus. Surplus is if no Federal agency wants it, then it can go to anybody.

What this does, Mr. Chairman, it puts the Catellus Corp. on the same level as the Federal Government for land acquisition. They can take over military bases, and there is nothing in there that states that they could not even sell it to a foreign country like Japan or one of the other countries that invests here. It is absolutely wrong.

Mr. Chairman, if after the 10-year period Catellus has not exchanged all of their landholdings, the corporation would then be allowed to establish an exchange account. There is nothing in there in the 10-year period that even says they have to use those credits. They can wait and pick and choose.

Mr. Chairman, I have here a list of affected lands. They can buy the 9-acre site and exchange it for points in San Francisco. There is another 9.6 acres in Malibu, with a 6,000-square-foot house they can trade for. It is wrong, Mr. Chairman. In effect, Catellus would go to the head of the line of all private parties.

Mr. Chairman, we have talked about the little guy, we have talked about the middle of the roader, and we have talked about the rancher. This is a company with a multibillion-dollar prospectus. This provision means that Catellus would be compensated for 100 percent of their losses under this bill. That is dramatically different from the way our Government treats most people who become inholders as a result of Federal land acquisitions. That situation, will get worse under this bill, because this is the largest addition to Federal landholdings in history of the lower 48 continental States.

Mr. Chairman, under law it also says that one cannot exchange land outside the State of California. That is law. This bill reneges on that law, because there is not enough land in the State of California to replace the 335,000 acres, and we would be violating the law in that as well. ;1130

Clearly this provision is the kind of special interest legislation that undermines the public faith in the fairness-Government. If one is in a multimillion-dollar corporation with the money to hire good lobbyists, he will be taken care of. If they simply are a retired couple who bought a cabin in the desert or a small mining corporation, they are out of luck. "Take a number and wait for the Department of the Interior to tell you what they think your land is worth and whether or not they will intend to pay for it."

What might Catellus eventually get under the deal by being allowed exchange of 100 percent of their lands for property elsewhere? They may reap up to \$ 100 million more than the actual value of their land in compensation. Additionally, they will be permitted to sell their exchange credits to others. They can go to one corporation and RTC lands and exchange those credits to that company who in turn could buy land for 10 cents on the dollar. That is not fair. It is not right.

Finally, it takes more than 10 years to dispose of all the land they may be eligible for property seized by the U.S. marshals, such as the 9 acres in beachfront property in Malibu. No other desert landholder will get such a sweetheart deal. I would love to get 9 acres in Malibu if I had a little ranch in the desert, and I think the chairman would, also. Catellus stock sold at \$ 38 per share back in 1989 before the real estate market collapsed, but that is simply not justification to treat one landholder so much better than every other landholder.

Mr. Chairman, this is not right. The amendment is correct. Let us take the special interests and let us put Catellus the same as everyone else and not give special interests to a gentlewoman from the other body.

PERFECTING AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer a perfecting amendment to section 609 that has

been printed in the Record .

The Clerk read as follows:

Perfecting amendment offered by Mr. Miller of California: Page 64, beginning on line 23, strike "the Catellus" and all that follows through " 'Catellus')" and insert "holder of private lands (hereafter in this section referred to as the 'landowner')".

Page 65, line 3, strike "Catellus" and insert "the landowner".

Page 65, line 7, strike "Catellus" and insert "the landowner".

Page 65, line 9, strike "Catellus" and insert "the landowner".

Page 67, line 8, strike "Catellus" and insert "the landowner".

Page 67, line 12, strike "Catellus" and insert "private".

Page 67, line 17, strike "Catellus" and insert "each landowner".

Page 67, line 19, strike "Catellus" and insert "the landowner". [*H5566]

Page 67, line 23, strike "Catellus" and insert "The landowner".

Page 68, line 6, strike "Catellus's" and insert "the landowner's".

Page 68, line 8, strike "Catellus" and insert "the landowner".

Page 68, line 9, strike "Catellus" and insert "the landowner".

Mr. MILLER of California. Mr. Chairman, the provision to which the Cunningham amendment speaks to is in no way represented by the remarks he just made, and I understand that he is standing in for the gentleman from California (Mr. Huffington) who wanted to offer this amendment. Let me go through the provisions that are in the law and explain what we were trying to do.

We have two very large inholdings in and around these parks and these Federal lands. One of them which is the Catellus Corp. of which 41 percent of the Catellus Development Corp. is owned by the California retirees, the State retirees, the CALPERS system, some 900,000 retired public workers in our State, that is held in trust for them.

In the management of the park and in the management of those lands, these are checkerboard lands. Every other section is owned by the Federal Government and/or Catellus. In trying to manage those lands in the most efficient way for the Federal Government and eventually hopefully in the most efficient way for the retirees in California, we were trying to work out a means by which they could exchange those lands and maybe we could consolidate Federal lands and they could consolidate their lands. If that did not work out, we would give them the option to see if there were other Federal lands we could trade for so we could put together a management regime of these lands. Catellus would receive no special favor, they would not be allowed, and if the gentleman would look at the bottom of page 67, this is for lands within the State of California, this has to be done in accordance with the Federal Land Policy and Management Act of 1976. But because of the concerns he has raised, my amendment simply allows this provision to be used by any landowner in the area. We have indications from a number of landowners that they, too, would like to swap out. They are more than welcome to go through this process and the Secretary will provide a list of lands that will be available. If exchanges cannot be available, the Secretary will provide an appraisal of their lands. They will be able to take that appraisal and

look for these surplus lands just like any other entity in this country which stands behind the original offers of the Federal Government. Eventually they, too, would be given an account where they could go in and hopefully they would take some RTC land from us. We are still managing it in the RTC.

As we know over the last 4 or 5 years, many people have gone in and bought RTC land and the economy has turned around in Houston or Dallas or Fort Worth or Arizona and, as I say, every person is entitled to his bargain. That is one way for us to get that land off our back, get the decent management and regime so we are not crossing back and forth over private properties in the management of this land or we can simply leave the status quo. Take Catellus out and we just leave it around and make it much more expensive to administer these parks and to essentially allow the California retired employees who are the stakeholders in this to have a bunch of checkerboard land out in the middle of the desert which they may or may not be able to ascribe some value to.

Mr. Chairman, there is nothing hidden here. This has been out in the open. It has been around for a long time. Some people say it is the size of it, but that is how the railroads ended up with the land. They were given these alternating sections. We are trying to provide some consolidation. I have no problem extending that to any other affected landowners in the areas. They can do the same thing. Hopefully we will, one, whittle down the backlog of excess and surplus property and we will whittle down some of the RTC property and we will end up with the management of those properties that are affected by this bill and in some instances those landowners who want out will be able to consolidate their properties so that they can leave.

Mr. Chairman, that is what is going on here. This amendment would simply make it apply to all landowners and then people can decide if they want to strike that provision across the board.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman for yielding.

I believe, Mr. Chairman, the RTC properties are exempt.

Mr. MILLER of California. They were in originally. They have now been taken out.

Mr. CUNNINGHAM. Where that could come into effect is past the 10-year period, they could sell their credits to someone else or use it for RTC property.

Mr. MILLER of California. The gentleman is correct.

Mr. CUNNINGHAM. I think this would be expensive, but at least it gives fairness to ranchers or someone who wants to exchange their land in the same way. I have no problem. I have been advised they do want a recorded vote on it, but I do not have any problem with the amendment.

Mr. MILLER of California. The gentleman has no problem with the amendment?

Mr. CUNNINGHAM. I do not.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first I would like to express my appreciation to the gentleman from California (Mr. Miller) for his perfecting amendment. Essentially his perfecting amendment would substitute an amendment that we were going to offer at another time during the debate on this section of the bill. It does address a very important question which I think is important to the public and the

membership of the House. It is one thing to lightly talk about putting all property owners in the same place on the playing field when it comes to getting themselves out of a major shift in Federal public land policies. Specifically, when the Federal Government acquires private property. It is another thing to recognize what the original solution was to sizable landholders in the area on the part of the committee.

Mr. Chairman, Catellus is a sizable corporation. But, what it actually is, is a company which was originally the landholder for the Santa Fe Railroad. Now, Catellus is a publicly traded corporation separate from the Santa Fe Railroad. Not quite a half a million acres but a sizable number of acres, approximately 355,000 acres spread throughout that desert region.

The committee made the decision that they had to solve the problem of some of those large landholders including Catellus, it was essentially to say that they would get at the front of the line. Indeed, when it came to a new park where Catellus lands were involved, the Natural Resources Committee felt that they would be given broad possibility in terms of essentially chits they could hold in their pocket and trade for other Federal assets.

The original language actually allowed them to go the RTC and trade for properties that were taken back as a result of the savings and loan scandal. As a practical fact of life. Catellus, initially the landholder for the railroads, has another relationship that is very interesting here. Over recent years, the public employees union in California has seen the potential values in those railroad lands or Catellus stock. They have progressively have purchased that stock.

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Now they own nearly 50 percent of the Catellus stock. So, now we do not have just the robber barons to worry about here. Essentially, we have got a process where there is a broad public employee base relative to their retirement system that was being protected by way of this amendment.

These issues were crystallized in the committee hearings in the Senate. Almost nobody discussing this whole subject area outside of the very inner bowels of the committee knew about these provisions the last time the House considered this legislation. The committee in the Senate thought this was outrageous and essentially did what the Huffington-Cunningham amendment would accomplish.

There is little doubt that the small miner, the small property owner, people who work for a living day in and [*H5567] day out need to be treated equally in this process.

So I support my colleague's amendment, the amendment offered by the gentleman from California, as well as the chairman's perfecting amendment. But, indeed, the public does need to know that there were special groups being taken care of in a very special way as this bill left the House the last time and as it was originally being proposed in the Senate committee.

When we are talking about millions of acres of land and thousands of small property owners, it is very, very important that the House be sensitive to those needs, the needs of the small person and make sure their voice is heard. That is what is happening in this case.

Mr. Chairman, I am including at this point in the Record several newspaper articles, as follows:

(From the San Francisco Chronicle, June 6, 1994)

Greed on the Range

(By Debra J. Saunders)

The rap on the Decade of Greed goes like this: In the Bad 1980s, aka the Reagan-Bush Years, leveraged buyouts reflected an accumulation sickness in the private sector. Amid a buying frenzy, amoral speculators would take over mom-and-pop operations with money they didn't have. The companies then were run to the ground. In the end, pensioners were left holding worthless junk bonds while raids on company assets cost workers their jobs.

Congress now is emulating the worst of the leveraged buyout kings. In the crime bills which passed the House and Senate, lawmakers expanded federal crimes even as the deficit has forced cuts in the federal criminal justice system. In April, the Senate passed the California Desert Protection Act, sponsored by Senator Dianne Feinstein, which "protects"-Feinstein's word-9 million acres of the California desert. The bill's acquisition pricetag of up to \$ 300 million, plus about \$ 7 million in annual upkeep, would be met by raiding other federal assets, or deficit spending. There could be a vote on a companion House measure, sponsored by California Democratic Representatives George Miller and Richard Lehman, as early as this week.

The questions Capital Hillians aren't asking: Does America need California desert preserves larger than the state of Maryland? And: Aren't the existing 2 million acre Death Valley National Monument and 500, 000 acre Joshua Tree National Monument enough? The question backers aren't answering with any credibility: How are they going to pay for all this wasteland?

Feinstein and Interior Secretary Bruce Babbitt insist that the bill can be paid for with savings squeezed from within the Interior Department budget. If this is true, Babbitt and Feinstein would pay for these million acres of scrub by raiding the budgets of real parks, like Yosemite and Yellowstone. That is, they would emulate the leveraged buyout and fund new acquisitions by looting other assets.

Last week The Chronicle ran a story about Yosemite's staffing woes. Despite a boom in visitorship and growing crime rate, Yosemite's staff is half the size it was 20 years ago. Yosemite charges a \$ 5 fee for visiting cars, which brought in \$ 5.4 million last year. That \$ 5 mil was sent to the Interior Department, which sent back only \$ 920,000. How much less might Yosemite get next year so that Feinstein and company can siphon more dollars to the Size of Maryland National Lizard Refuge?

As critics have pointed out, Congress has a habit of buying lands it can't care for. Senate Appropriations Chairman Robert Byrd warned, "We cannot adequately maintain the parks that we now have. * * *" This kind of overspending cannot go on forever. Already, national parks suffer from a \$ 2.9 billion maintenance backlog. If Congress keeps this up, a systems crash is inevitable.

Ironically, the House bill even contains something of a bailout for a corporate concern that took a bath in California's real estate crash, the Catellus Development Corporation. Catellus owns almost 1 million acres of California desert, land that was given to its parent company, the Santa Fe Railroad, by the federal government. The House bill would allow Catellus to swap more than 300,000 acres for as much as a \$ 400,000 credit for this who-else-wants-it acreage, according to Representative Jerry Lewis, a Republican from the desert area. And that \$ 400,000 could be exchanged in a below-market trade for other federal properties. No coincidence: 40 percent of Catellus, which lost \$ 53 million in 1993, is owned by CalPERS, the politically influential state employee retirement fund, which would benefit from the bill.

"The bottom line is we can't afford not to have this park," Babbitt once said. Wrong. America cannot afford these wide acres. Other parks will pay for Babbitt's snake-oil pitch and Feinstein's voodoo financing.

(From the San Francisco Examiner)

Real Estate Syndicator Capitalizes on Catellus

(By Bradley Inman)

Not everyone lost money on Catellus. The real estate firm that got the California Public Employees Retirement System to invest in Catellus Development Corp. has been rewarded handsomely.

JMB Realty Corp. was paid a finder's fee or acquisition fee of \$ 7.96 million when Calpers first invested in Catellus, according to Roger Franz, Calpers' mortgage investment officer. Moreover, the Chicago-based real estate firm is paid an annual asset management fee of \$ 2.38 million.

In the 1980s, JMB was one of the nation's largest real estate syndicators, raising money for a raft of property deals across the country, including bringing Catellus and Calpers together. Today, JMB is a property manager, developer and real estate adviser.

"Have you ever heard of someone getting such a fee to manage a stock? It's the most bizarre thing you can imagine," former California State Sen. Dave Elder said earlier this year when Calpers upped its stake in Catellus. While in the state Legislature, the Long Beach Democrat was a frequent critic of Calpers' investment in Catellus.

"It (the fee) is certainly unique," said Mike Kirby, principal in the Newport Beach-based Green Street Advisors, which does institutional research on publicly traded real estate firms. He also described the fee as "excessive, foolish, ridiculous and outrageous" by Wall Street standards.

Calpers Chief Investment Officer DeWitt Bowman defended the fee, noting that it was "competitive with private placement fees at the time."

The fees are part of a partnership agreement that Calpers has with JMB, in which the realty concern acts as managing general partner of Bay Area Real Estate Investment Associates (BAREI). BAREI was formed to invest in Catellus, although Calpers put up 98.8 percent of the money.

"Compared to what some investment bankers get, JMB's (upfront) fees are very low," said Bowman.

He conceded that the ongoing fee may be higher, but he pointed out that "most Wall Street fees are expensed up front and are often very handsome. We spread ours out over the life of the investment."

According to Calpers, the fees go to compensate JMB for independent analysis of Catellus and to represent the pension fund on the board of directors. The two JMB directors on the Catellus board, Darla Totusek Flanagan and Judd D. Malkin, also received \$ 15,000 from Catellus to serve on the board along with \$ 1,000 per board meeting.

A JMB representative referred calls regarding BAREI to Calpers.

Bowman said, "Generally, we get our money's worth."

(From Human Events, June 3, 1994)

Inside Washington: Will Back-Room Deal Derail Desert Bill?

Following the Memorial Day recess, the House will consider final approval of the California Desert Protection Act, a monumental environmental bill (HR 518) designed to transfer millions of acres of land in southern California to "protected **wilderness**." While thousands of endangered property owners, farmers and local miners on the land are mounting opposition, the bill's

sponsors have tried to clear the way for passage by inserting a special financial arrangement- originally crafted by Sen. Dianne Feinstein (D.-Calif.)-for the politically connected Catellus Development Corp., which has large land holdings in the area.

Angered by the inequities and huge additional costs of such a provision, Rep. Jerry Lewis (R.- Calif.) is now planning to fight the Catellus deal, which, if removed, could jeopardize the passage of the bill itself.

Introduced over eight years ago by then Sen. Alan Cranston (D.), the California Desert Protection Act was the result of persistent lobbying by a number of environmental groups- particularly the Sierra Club-that argued that the southern California desert was at serious risk from mining and off-road vehicle use. The bill proposed redesignating tracts of land in and around the East Mojave desert from multiple use standards under the Bureau of Land management to strictly protected **wilderness** in the National Park Service.

The final version of the bill, however, ended up applying to an immense area far exceeding any original estimates. Shutting off about 7.5 million acres of variegated land (the size of the state of Maryland) to resource extraction and virtually any other use, it represents the largest withdrawal of federal land in the history of the lower 48 states.

The mining industry, which has predicted the bill will cause the loss of \$ 1.6 billion in mineral production per year and 12,000 to 20,000 jobs on the extremely valuable lands, has been a staunch opponent. Also aggrieved are the thousands of private property holders within the areas (inholders) who would face stringent land use regulations and lengthy negotiations with the Park Service over the status of their lands (see Human Events, April 22, 1994).

But perhaps the biggest hurdle for the bill's proponents has been the status of approximately 418,000 acres of land in the protected areas owned by the huge Catellus Corp. According to a staffer on the House Natural Resources Committee, lobbyists for the Catellus Corp.-one of California's biggest land development concerns, with \$ 2.1 billion in real estate assets-were able to hold up the bill for years while they tried to get better terms for their land. [*H5568]

But when Sen. Feinstein was elected in 1992, she resubmitted the ailing California Desert Protection Act originally sponsored by Cranston and made it one of her top legislative priorities. And Feinstein-who has had a close and amicable relationship with the San Francisco-based Catellus Corp. since her days as mayor of that city-was determined to smooth out the rough spots.

FEINSTEIN DEVICES SPECIAL CATELLUS PLAN

In her bill, Feinstein granted Catellus an extremely favorable arrangement for the transfer of its lands. While all other land-holders in the protected areas would face the standard, drawn-out, allegedly "fair-market price" government purchases, the Feinstein bill established for Catellus a "special land account"-an unprecedented legal arrangement that will enable the company to immediately exchange its desert lands for other federal property in the state of California or for its cash value.

Such a provision is a hugely important privilege considering that the National Park Service is already about \$ 9 billion and many years behind in payments to numerous property owners under its normal acquisition procedures.

Several members of the Senate Energy and Natural Resources Committee opposed the deal singling out Catellus for the right to swap its property for valuable lands, such as Resolution Trust Corp.-seized property or land no longer used by the military.

Republican critics, who decried the concessions made to Catellus as patently unfair to the other

desert landholders and estimated that financing the deal would eventually cost American taxpayers an additional \$ 2 to \$ 3 billion, were able to kill the provision in the Senate version of the bill, which then passed 69 to 29 (See Human Events rollcall, April 22, page 23).

But now, the Catellus provision has reappeared in the House bill being aggressively pushed by Natural Resources Committee Chairman George Miller (D.-Calif.), also of the San Francisco area. Specifically, the bill declares, "The Secretary (of Interior) shall establish an account in the name of Catellus. Upon the transfer of title by Catellus to * * * the United States, the Secretary shall credit the exchange account in the amount of the appraised value. Catellus may use the credits in its account to bid for surplus federal property in California * * * (or) the credits may be sold in whole or part by Catellus to any other party."

The land deal with Catellus has provoked bitter reaction from area mining organizations and property rights groups already angry about the bleak future of their own holdings. Chuck Cushman, executive director of the National Inholders Association, remarked, "It definitely appears that as far as the bill goes, some people are more equal than others."

Don Fife, director of government relations at the National Association of Mining Districts, commented, "(The Catellus deal) is the ultimate in political cynicism. To please the Sierra Club they propose this reckless bill that will thoroughly decimate the miners and * * * then to push it through they cut this huge land deal with Catellus. * * *"

UNDUE FAVORITISM?

Sen. Feinstein, who is up for re-election this fall, is drawing particularly harsh criticism for her role in the desert deal. Besides sponsoring an economically devastating proposal-all four congressmen from affected districts have opposed the bill-she now, with the Catellus deal, also has given the appearance of being involved in a conflict of interest.

In 1984, when mayor of San Francisco, she entered into a massive business/government venture with Catellus to develop the Mission Bay Project, an urban renewal program on San Francisco Bay. In announcing the awarding of a \$ 2.1-billion contract to Catellus to build the project, she declared, "I am prepared to support it before various government bodies."

Now, 10 years later, and considerably over budget, the joint San Francisco Mission Bay project is still unfinished. And the firm that Feinstein chose to build it is now in serious financial trouble. Last year Catellus posted a \$ 400-million loss and its stock has continued to tumble from a high of \$ 38 to about \$ 8 a share.

And the condition of Catellus' health grew considerably more critical for Cranston, and now Feinstein, after the huge California state pension fund Calpers acquired 41% of the stock of Catellus before the firm's stock began to decline.

In a letter to Cranston in 1990, Calpers clearly expressed its demand for a special Catellus deal in the impending desert bill. Dale Hansen, executive officer for Calpers, wrote, "Calpers paid \$ 428 million for this investment (in Catellus), and unless (the bill) adequately compensates owners of land and mineral rights, hundreds of thousands of working people and retired persons in California could suffer financial injury."

Hansen concluded, "The bill must be amended to: (1) exclude a portion of the Catellus holdings thought to have significant mineral deposits, and (2) provide for adequate compensation for other Catellus-owned land."

Rep. Lewis, who says that the Catellus deal is just one aspect of an entirely rotten land acquisition deal, told Human Events, "The Feinstein bill raises visions of robber barons of the Old West. While Sen. Feinstein has largely accommodated large corporate interests, she has

forgotten the little guy, the inholders whose land make up our desert."

But Lewis promises that the Catellus provision will not stay in the final bill without a bitter fight on the House floor. He plans to propose an amendment that either the Catellus deal be struck from the bill or that its "special account" for land swaps be extended to everyone holding land within the proposed **wilderness** areas. Either provision would deal a nearly fatal blow to this massive proposed land grab, but would, as Lewis notes, finally inject a modicum of fairness and sanity into the government's acquisition of private land.

(From the San Francisco Examiner, July 20, 1993)

Riding Out the Slump

(By Bradley Inman)

Unlike so many California property companies-most of which are private and struggling-Catellus Development Corp. can't mask how the state's slumping real estate market has hammered the San Francisco-based firm.

The company still has big dreams for its vast property holdings, including San Francisco's 313-acre Mission Bay community. But it is a publicly traded company and its stock performance tells the painful story of the firm's 4-year life, which perfectly parallels the 48-month downturn in the real estate market here.

Take the earliest investor in Catellus. Just before the company was spun off from the Santa Fe Pacific Corp. in 1990, the \$ 81 billion California Public Employment Retirement System (Calpers) bought 19.9 percent of Catellus at a price equivalent to \$ 38 a share or \$ 398 million.

Last week, the stock was trading around \$ 6.75 a share. On paper, the pension fund's original investment sank a whopping 82 percent, representing a \$ 326 million loss. By this measure, Wall Street has been less forgiving of Catellus than the overall California real estate market, which has collapsed 30 to 50 percent.

"If Calpers had just gone out and bought raw land anywhere in California (with their \$ 398 million investment in Catellus), they would have been better off," said consultant Jeffrey Lewis, who has advised Calpers on other real estate transactions.

But while stock investors have heavily discounted the value of Catellus Development Corp., real estate people still drool over the prospects of the company's land holdings. In some of California's most ideal urban settings, these complex deals promise megaprofits on futuristic new towns, massive shopping destinations and expansive new neighborhoods.

Catellus is caught between two worlds: Wall Street and real estate development. Most property developers are dream peddlers who must aggressively sell the prospects of their projects so that banks lend, so that cities grant approvals and so that consumers use and buy their space.

On its four massive mixed-use projects in California, for example, Catellus has successfully sold its dreams to local civic leaders, elected officials and hometown lenders.

Wall Street, on the other hand, doesn't care much for long-term promises and cares even less about dreamers: It wants to hear about quarterly earnings, cash flow and stock value.

Less than a year after Calpers picked up its expensive 19.9 percent stake in Catellus, the company's stock went public and opened at \$ 8.50 per share. It rose to \$ 15 per share but has been languishing at \$ 5.75 to \$ 8.25 for the last year.

FORMED AT REAL ESTATE PEAK

Catellus was formed at a time when California's real estate market seemed to offer prosperity at every turn, and Santa Fe Pacific's \$ 3.1 billion property portfolio was viewed as a magnificent asset buried inside the railroad giant.

But since 1989, the California real estate market has collapsed and Catellus' holdings have plummeted 31 percent, according to company appraisals which valued its property at \$ 2.1 billion at the end of 1992.

Add a sour market to a tradition by Wall Street to discount land companies and you have a depressed stock.

"This isn't a bankruptcy situation and it's not a \$ 1 stock, but the company hasn't performed as expected," said Mike Kirby of the Newport Beach-based Green Street Advisors, an institutional research firm that does ongoing analysis of Catellus and other publicly traded real estate companies.

However, while Green Street isn't bullish on the stock, it gives Catellus management credit for effectively steering the company through troubled times.

"Vernon Schwartz is a bright capable guy," said Green Street's Jon Fosheim, referring to Catellus' chairman, president and chief executive officer.

Other analysts also give good reviews of management and are more bullish on the firm's prospects. "Catellus is a good company in bad times," said Barry Vinocur, publisher of Realty Stock Review in Shrewsbury, N.J. "It should be a solid long-term growth play."

"This is definitely an undervalued company, but anyone developing in this market has trouble creating value," said San Francisco-based Montgomery Securities' real estate analyst James Wilson. [*H5569]

SELLING TO SHOW A PROFIT

Though it generates sizable revenues from its many

industrial office parks, the company has had to sell off small parts of its 950,000 acres of property to show a profit. The vast majority of the holdings are agriculture land and mountain property.

One real estate observer equated this strategy to "someone drinking his own blood to survive."

But company executives say that the land-selling scheme was always an integral part of the Catellus plan.

"We are selling land out of our surplus of desert and mountain holdings-it's not property that is imminently or near-term developable," said Mary Burczyk, a Catellus vice president.

Green Street's Fosheim confirms that "the game plan has always depended on selling land." But he also said that "therein lies the whole problem with the company: Just as they need the liquidity (from land sales) to develop and cover their debt service, they need to sell land at a time when land values have collapsed."

On the dream front, Catellus faces some formidable challenges as a developer.

After putting together a complex entitlement with the cities of Emeryville and Oakland, Catellus

is furthest along with its East Baybridge discount warehouse retail project. The company is breaking ground later this summer on the 40-acre site at the crossroads of interstates 580 and 80 along the Emeryville-Oakland border, which retail experts say is one of the best retail locations in all of California. The 462,000 square-foot project will have a Home Depot, Office Max, Pak 'N Save and SportMart.

SLOW-MOVING MISSION BAY

Moving much slower is Mission Bay, which in many ways embodies the gap between the dream and booked earnings. This project has won all sorts of honors and accolades for its master plan and for the nearly 10-year planning process undertaken by The City and Catellus.

But at best, the company won't break ground on the site until 1994 or 1995. And it plans to start with a modest 150- to 200-unit subdivision on a project that promises 8,000 homes.

Catellus is still negotiating with The City about how to undertake and guarantee the environmental clean-up on the former industrial site, which has toxic problems. Regardless, the company hasn't been too eager to proceed because the real estate market has been so bad, according to Catellus Vice President James W. Augustino.

The company's 1,400-home golf course community in Fremont has received local approvals but, according to Burczyk, financing for the golf course is difficult to obtain in this market. Nevertheless, she said, "It's on track even if it's not on the fast track."

Catellus is also trying to get approval for a major mixed-used project in downtown Los Angeles, and plans for a commercial development in downtown San Diego are stalled by the downturn in the economy.

SCRAMBLING TO RESTRUCTURE

In the meantime, Catellus has been scrambling to restructure its debt, including a \$ 388 million first mortgage loan with the Prudential Insurance Co. of America and a \$ 109 million convertible bond with Calpers.

Prudential committed to refinancing the loan, which comes due in 1994 and 1996. Earlier this year, Calpers doubled its stake in Catellus by converting the bond into \$ 141 million in stock. This boosted Calpers ownership in Catellus to 40 percent.

While company executives say this investment shows a commitment by Calpers, observers say the pension fund had no other choice. If it had demanded payment on the bond, Catellus would have been strapped for funds, hurting its ability to pursue development projects and jeopardizing Calpers' original 19.9 percent stake.

"Short term, we are obviously concerned, but we view Catellus as a long-term investment," said DeWitt Bowman, Calpers' chief investment officer. "We are in a hold position with the investment."

Added Roger Franz, Calpers' mortgage investment officer, "In our portfolio, Catellus is an alternate investment-somewhat similar to a venture capital investment-where there is no expectation of a return for, say, 5 to 7 years."

What's next?

Both its standing on Wall Street and the future of its big projects are driven so much by the state's real estate market. If the market turns around, "a land-rich company can double overnight," said Green Street's Kirby. "Catellus is going to be a timing call."

A turnaround in the real estate market will also help the company finance its big development projects, drive up the value of its land holdings and increase demand for the developments. Catellus' fate is, in many ways, out of the hands of its board of directors and its executives.

On the other hand, because of Wall Street constraints, Catellus can't act like a cavalier developer, which pushes forward in a good market or bad. Wall Street forces the company to be conservative and measured.

These same limits may account for Catellus' survival. Big risks in a bad market have forced many real estate developers out of business.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I am happy to yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank my friend, the gentleman from California, for yielding to me.

As a Member who has not been intimately acquainted with the details of the Catellus provisions, I have a few basic questions. I am trying to sort this out as we go through the debate.

My friend, the gentleman from California (Mr. Miller), described the Catellus investment as being basically retirees in the California retirement system. But as I understand it now, as to Catellus, it is a little deeper than that, in that the Catellus Corp. is a landholding corporation for the Santa Fe Railroad. Is that right?

Mr. LEWIS of California. That is my understanding. Their origin was that.

Mr. MILLER of California. If the gentleman will yield, just a point of clarification, I think the gentleman from California (Mr. Lewis) said earlier they no longer are that. They are a separate publicly held corporation. I believe about 40 to 45 percent of the stock is now owned by CALPERS.

Mr. HUNTER. So it is a corporation which is now publicly owned, and that means that it has a mix of investors, some of whom are the CALPERS, which is the retirement system in California, but also some people are simply Wall Street investors who thought it was a good investment who bought stock in Catellus. So it is a mixture.

The CHAIRMAN. The time of the gentleman from California (Mr. Lewis) has expired.

(At the request of Mr. Hunter and by unanimous consent, Mr. Lewis of California was allowed to proceed for 2 additional minutes).

Mr. LEWIS of California. Mr. Speaker, I will continue to yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, so it is a mixture of owners, some of whom are simply stock investors; others are individuals who invested in CALPERS, which is the retirement plan for public employees in California, who have invested about, or who have about 40 percent of the stock presently held by Catellus?

Mr. LEWIS of California. Something in excess of that, but the gentleman is correct.

Mr. HUNTER. What the gentleman is talking about is a deal in which, in order to consolidate, as the chairman said, property holdings in the California desert, some of which will be **wilderness** that is presently checkerboarded private-public-private-public, and Catellus being formerly the railroad holding company, holds a great deal of this land. How much is the gentleman talking

about? How much acreage?

Mr. LEWIS of California. In excess of 355,000 acres. Some estimates are as high as 400,000 acres.

Mr. HUNTER. Four hundred thousand acres. The one provision originally of the bill gave Catellus, this holding corporation which holds 400,000 acres in fee, fee simple of land in the proposed **wilderness**, will be given a menu of other properties held by the Federal Government throughout California or throughout the United States where they could pick and choose which ones they wanted to take in exchange for their giving up ownership of the desert lands?

Mr. LEWIS of California. The original language was much broader than the gentleman suggests. Catellus essentially would have been put at the front of the line, given what could essentially be described as chits. As they saw properties that were within the Federal collection of properties, they could use those chits for value and trade that property. It included not just land that was, like, land in the State of California, but in an unprecedented fashion, land anywhere in the country, and then from there, even other Federal assets were originally included, RTC properties, for example.

The CHAIRMAN. The time of the gentleman from California (Mr. Lewis) has again expired.

(At the request of Mr. Hunter and by unanimous consent, Mr. Lewis of California was allowed to proceed for 2 additional minutes.)

Mr. LEWIS of California. I would love to be on the board of directors of a corporation and be able to trade those chits for the assets that are really the public's assets or citizen taxpayers' assets [*H5570] and select from those that I thought were really valuable to me. These assets could include strengths in financial institutions going broke, et cetera.

Mr. HUNTER. So you are saying originally the holding company, the Catellus Corp., could say, "We like this string of condominiums down here. We think we might be able to buy it at fire-sale prices if it is RTC?"

Mr. LEWIS of California. That was the original plan. Yes.

Mr. HUNTER. If I could carry this a little bit further, could you contrast this with, say, a rancher who had 20 acres that was going to be taken that is an inholding in the **wilderness** area? What choices would that rancher have? Would he be able to look at this menu of properties throughout the United States and make an acquisition or use the chit system you have discussed to acquire those properties?

Mr. LEWIS of California. The amendment, as it would be perfected by the chairman, would put all property owners on an equal footing. They would not be able to trade for properties around the country, as I understand it, but nevertheless, those properties available to them, they would be put on an equal footing which seems to be appropriate.

Mr. HUNTER. Just lastly, as I understand it, basically the chairman's amendment does the same thing the Huffington-Cunningham-Lewis amendment would do, that is, put everybody, Catellus Corp. and small landowners, all on the same playing field where they all have the same opportunity to choose from properties around the country?

Mr. LEWIS of California. Yes, The chairman's perfecting amendment has essentially combined an amendment offered by the gentleman from California (Mr. Cunningham) and the amendment that was going to be proposed by the gentleman from California (Mr. Huffington). As you know, the gentleman from California (Mr. Huffington) is not able to be here today because of a medical problem.

Mr. HUNTER. Just one last question, and maybe the chairman could elucidate on this, is there any constraint on this still that will be in place under this amendment where the Catellus Corp. and the other landowners now will be able to look at other property around the State or around the country and say, "We would like to trade for that one, we would like to trade for that one?" Have we constrained that at all in this amendment, or will all parties have that opportunity?

Mr. LEWIS of California. It is my understanding that the language, presuming the perfecting amendment, would put all landowners or property owners in the same position on a level playing field.

The CHAIRMAN. The time of the gentleman from California (Mr. Lewis) has again expired.

(At the request of Mr. Hunter and by unanimous consent, Mr. Lewis of California was allowed to proceed for 2 additional minutes.)

Mr. LEWIS of California. If the chairman would correct me if I am incorrect, I believe that his perfecting amendment essentially would establish the same language that would be a part of the bill as it currently exists coming from the other body? Is that correct?

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I am happy to yield to the gentleman from California.

Mr. CUNNINGHAM. I thank the gentleman for yielding to me.

First of all, I would like to thank the gentleman from California (Mr. Huffington) and the gentleman from California (Mr. Miller); two different ways to solve the same problem, but it takes care of the little guy, and I think that is important in this.

I would also like to thank the gentleman from California (Mr. Lewis), because I knew you and the gentleman from California (Mr. Hunter) were going to offer an amendment later, this same amendment, which neutralized and gave the little guy the same rights as the Catellus. I only wish that the other body would have taken this into account instead of looking after the special interests.

I thank the gentleman from California, and I thank the gentleman from California (Mr. Miller) for the perfecting amendment.

I ask my colleagues to support it.

Mr. LEWIS of California. I appreciate my colleagues being patient with the time on this matter.

The gentleman from California (Mr. Huffington) has put a great deal of time and effort into this amendment and was going to present the amendment today. Unfortunately, a detached retina has delayed his arrival here in Washington. In the meantime, I urge the Members to support this perfecting amendment.

Mr. McCANDLESS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am speaking in favor of the amendment.

Mr. Chairman, most of what I have to say has been covered. However, there are some areas here that I think are extremely important, for the purpose of land ownership in areas which are surrounded by public lands that either needs clarification beyond that of this amendment, or some type of colloquy that would explain to the average person what has transpired with respect

to the arrangement made between the gentleman from California (Mr. Cunningham) and the chairman over yesterday's activities.

First, let me explain something here that I think is important, and that is the assets of the Catellus Corp., one cannot deny, are theirs and theirs alone to which they are entitled.

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However, I would point out that by far, largely a very high percentage, if not virtually all, of the property held by Catellus is a result of the Railroad Act of the 1860's in which, as an encouragement for the railroads to build westward, the Federal Government gave them optional, that is, on each side of the railroad, sections of land as an inducement to spend this money to build the railroad for which then they could sell the land as a means of an incentive to go out and borrow these large amounts of money and to make this large investment.

I mention this because the railroad was the original, basic monetary investment in the Catellus property, which originated with Santa Fe. These lands, which constitute a large part of my district, have since been invested in by other parties.

Now having set that stage, I would like to point out that in the area, particularly between the Coachella Valley and Palm Springs area and the Colorado River, if one takes a look at the land map they will see a checkerboard on top of a checkerboard on top of a checkerboard of private ownership, public ownership, private ownership, by sections of land.

The problem we have here is manifold in that the current legislation before us says that if you own a piece of property in this section that is going to be designated **wilderness**, you are no longer-you will no longer have access to this property unless you can walk to it.

All right. Now we have that and we have that property surrounded by public land. When we talk about individuals-and they want to dispose of that property because it now is to be in a **wilderness** area. Unless this amendment is passed, as I understand the structure of its language, then the owner of that section of land, say x amount of acres, cannot sell that land as Mr. Catellus or some other person could-and I mean "Mr." in the sense of the corporation-so he or she becomes a party of the 14th part if they get in line, and there are 14 pieces of the bone left. I think this is not the right thing to do, as I have outlined in the origin of the properties. And I take exception to the fact that we have virtually thousands of private property owners who own sections of land, quarter sections of land, all through the desert area both in my district, Mr. Thomas ' district and particularly in Mr. Lewis' district, that will not have an opportunity to move forward.

Second, I think we need to clarify what is referred to as Federal surplus lands. Are we talking about, say, a Norton Air Force Base or a March Air Force Base or another Air Force base or an Army base or a Navy base; are these considered to be surplus Federal lands which have a value, which have a value to communities? And where in the pecking order do we have the Catelluses if this amendment is not [*H5571] passed in terms of the purchase of these lands, or the right to have them as that right relates to the economic value of that land within the community in which it exists?

So I have a great deal of concern here about not only how are we going to move forward and take care of the in-holdings, where we want to develop a **wilderness** area and give that landowner a right that he or she deserves with respect to compensation for their land, for which we have none in the bill, I might add, but also how to maintain access to that property, the development of that property, without the approval of the Secretary of the Interior irrespective of whether or not the land use is designated by the county or the jurisdictional land use authority?

The CHAIRMAN. The time of the gentleman from California (Mr. McCandless) has expired.

(By unanimous consent, Mr. McCandless was allowed to proceed for 1 additional minute.)

Mr. McCANDLESS. Mr. Chairman, without the consent of the Secretary of the Interior, we cannot develop that, as I understand it, within a park, within a **wilderness** area, whatever it might be. This is a multi-faceted thing that deals with the real rights of a property owner.

Yes, the property owner is one of many who should contribute to the public welfare through the eventual sale of that property to the designated area, but in so doing, the property owner is entitled to a series of activities which are equal to those of a higher land use of ownership in terms of numbers.

Mr. Chairman, I do not know that the chairman of the committee would want to respond to this, but there are some real concerns here, given the fact that we are trying to develop **wilderness** areas, we are trying to address the issue of private ownership.

We talked about eminent domain, fair prices, and therein lie some real questions as to how that comes about based upon the history of the National Park Service and its dealings with private ownership.

I certainly would suggest to my colleagues that it is a good move to approve this amendment, and I ask that it be moved forward.

The CHAIRMAN. The question is on the perfecting amendment to section 604, offered by the gentleman from California (Mr. Miller).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CUNNINGHAM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were-ayes 419, noes 0, not voting, 20.

(Roll No. 319)

AYES-419

Abercrombie	Ackerman	
Allard	Andrews (ME)	Andrews (NJ)
Andrews (TX)	Applegate	Archer
Armey	Bacchus (FL)	Bachus (AL)
Baesler	Baker (CA)	Baker (LA)
Ballenger	Barca	Barcia
Barrett (NE)	Barrett (WI)	Bartlett
Barton	Bateman	Becerra
Beilenson	Bentley	Bereuter
Berman	Bevill	Bilbray
Bilirakis	Blackwell	Bliley
Blute	Boehlert	Boehner
Bonilla	Bonior	Borski
Boucher	Brewster	Brooks
Browder	Brown (CA)	Brown (FL)
Brown (OH)	Bryant	Bunning

Burton	Buyer	Byrne
Callahan	Calvert	Camp
Canady	Cantwell	Cardin
Carr	Castle	Chapman
Clay	Clayton	Clement
Clinger	Clyburn	Coble
Coleman	Collins (GA)	Collins (IL)
Collins (MI)	Combest	Condit
Conyers	Cooper	Coppersmith
Costello	Cox	Coyne
Cramer	Crane	Crapo
Cunningham	Darden	de la Garza
de Lugo (VI)	Deal	DeFazio
DeLauro	DeLay	Dellums
Derrick	Deutsch	Diaz-Balart
Dickey	Dingell	Dixon
Dooley	Doolittle	Dornan
Dreier	Duncan	Dunn
Durbin	Edwards (CA)	Edwards (TX)
Ehlers	Emerson	Engel
English	Eshoo	Evans
Everett	Faleomavaega (AS)	Farr
Fawell	Fazio	Fields (LA)
Fields (TX)	Filner	Fingerhut
Fish	Flake	Foglietta
Ford (MI)	Ford (TN)	Fowler
Frank (MA)	Franks (CT)	Franks (NJ)
Frost	Furse	Gallegly
Gejdenson	Gekas	Gephardt
Geren	Gibbons	Gilchrest
Gillmor	Gilman	Gingrich
Glickman	Gonzalez	Goodlatte
Goodling	Gordon	Goss
Grams	Grandy	Green
Greenwood	Gunderson	Gutierrez
Hall (OH)	Hall (TX)	Hamburg
Hamilton	Hancock	Hansen
Harman	Hastert	Hastings
Hayes	Hefley	Hefner
Herger	Hilliard	Hinchey
Hoagland	Hobson	Hochbrueckner
Hoekstra	Hoke	Holden
Horn	Houghton	Hoyer
Hughes	Hunter	Hutchinson
Hutto	Hyde	Inglis
Inhofe	Inslee	Istook
Jacobs	Jefferson	Johnson (CT)
Johnson (GA)	Johnson (SD)	Johnson, E. B.
Johnston	Kanjorski	Kaptur
Kasich	Kennedy	Kennelly
Kildee	Kim	King
Kingston	Kleczka	Klein
Klink	Klug	Knollenberg
Kolbe	Kopetski	Kreidler
Kyl	LaFalce	Lambert
Lancaster	Lantos	LaRocco

Lazio	Leach	Lehman
Levin	Levy	Lewis (CA)
Lewis (FL)	Lewis (GA)	Lewis (KY)
Lightfoot	Linder	Lipinski
Livingston	Lloyd	Long
Lowey	Lucas	Machtley
Maloney	Mann	Manton
Manzullo	Margolies-Mezvinsky	Markey
Martinez	Matsui	Mazzoli
McCandless	McCloskey	McCollum
McCrary	McDermott	McHale
McHugh	McInnis	McKeon
McKinney	McMillan	McNulty
Meehan	Meek	Menendez
Meyers	Mfume	Mica
Michel	Miller (CA)	Miller (FL)
Mineta	Minge	Mink
Moakley	Molinari	Mollohan
Montgomery	Moorhead	Morella
Murtha	Myers	Nadler
Neal (MA)	Neal (NC)	Norton (DC)
Nussle	Oberstar	Olver
Ortiz	Orton	Owens
Oxley	Packard	Pallone
Parker	Pastor	Paxon
Payne (NJ)	Payne (VA)	Pelosi
Penny	Peterson (FL)	Peterson (MN)
Petri	Pickett	Pickle
Pombo	Pomeroy	Porter
Portman	Poshard	Price (NC)
Pryce (OH)	Quillen	Quinn
Rahall	Ramstad	Rangel
Ravenel	Reed	Regula
Reynolds	Richardson	Roberts
Roemer	Rogers	Rohrabacher
Romero-Barcelo (PR)	Ros-Lehtinen	Rose
Rostenkowski	Roth	Roukema
Roybal-Allard	Royce	Rush
Sabo	Sanders	Sangmeister
Santorum	Sarpalius	Sawyer
Saxton	Schaefer	Schenk
Schiff	Schroeder	Schumer
Scott	Sensenbrenner	Serrano
Sharp	Shaw	Shays
Shepherd	Shuster	Sisisky
Skaggs	Skeen	Skelton
Slaughter	Smith (IA)	Smith (MI)
Smith (NJ)	Smith (OR)	Smith (TX)
Snowe	Solomon	Spence
Spratt	Stark	Stearns
Stenholm	Stokes	Strickland
Studds	Stump	Stupak
Sundquist	Swett	Swift
Synar	Talent	Tanner
Tauzin	Taylor (MS)	Taylor (NC)
Tejeda	Thomas (CA)	Thomas (WY)

Thompson	Thornton	Thurman
Torkildsen	Torres	Torricelli
Towns	Traficant	Tucker
Underwood (GU)	Unsoeld	Upton
Valentine	Velazquez	Vento
Visclosky	Vucanovich	Walker
Walsh	Waters	Watt
Waxman	Weldon	Wheat
Whitten	Williams	Wilson
Wolf	Woolsey	Wyden
Wynn	Yates	Young (AK)
Young (FL)	Zeliff	Zimmer

NOT VOTING-20

Barlow	Bishop	Danner	Dicks
Ewing	Gallo	Huffington	
Johnson, Sam	Laughlin	McCurdy	
McDade	Moran	Murphy	
Obey	Ridge	Rowland	
Slattery	Volkmer	Washington	
Wise			

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Ms. VELAZQUEZ, Ms. HARMON, Mr. ROEMER, and Mr. BATEMAN changed their vote from "no" to "aye."

So the perfecting amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment to strike offered by the gentleman from California (Mr. Cunningham).

The question was taken; and the Chairman announced that the noes appeared to have it.

So the perfecting amendment to strike was rejected.

The CHAIRMAN. Are there further amendments?

PARLIAMENTARY INQUIRIES

Mr. CUNNINGHAM. Mr. Chairman, I have a parliamentary inquiry. No Member said, "no." There was not a single "no." How could the "noes" have it?

The CHAIRMAN. The Chair announced that the "noes" had it.

Mr. VENTO. Mr. Chairman, I could not hear.

The CHAIRMAN. The Chair put the question to a vote on the amendment to strike as submitted by the gentleman from California (Mr. Cunningham). In the vote, as voice [*H5572] voted, the Chair recognized that the "noes" had it.

Mr. CUNNINGHAM. Mr. Chairman, I have a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CUNNINGHAM. If there were "ayes" and there were absolutely no recorded "noes," how does the Chair say that the "noes" have it?

The CHAIRMAN. The Chair recognized the "noes," and the Chair himself voted "no."

Mr. CUNNINGHAM. That is one vote, Mr. Chairman. At least 10 Members said "aye."

Mr. VENTO. Mr. Chairman, I have a parliamentary inquiry.

Mr. Chairman, if the amendment to strike had been successful, then the perfecting amendment offered by the gentleman from California (Mr. Miller), which was agreed to, would be stricken; is that correct?

The CHAIRMAN. The gentleman is correct.

Mr. VENTO. I have a further parliamentary inquiry, Mr. Chairman.

The situation now is that the Miller language, as perfected, is in the bill, is that correct, as agreed to by the gentleman from California (Mr. Cunningham)?

The CHAIRMAN. The gentleman is correct.

Mr. VENTO. I thank the Chair.

Mr. CUNNINGHAM. I thank the Chair.

The CHAIRMAN. Are there further amendments to title VI?

If not, the Clerk will designate title VII.

The text of title VII is as follows:

TITLE VII-DEFINITIONS AND AUTHORIZATION OF APPROPRIATIONS

DEFINITIONS Sec. 701. For the purposes of this Act:

(1) The term "Secretary", unless specifically designated otherwise, means the Secretary of the Interior.

(2) The term "public lands" means any land and interest in land owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management.

AUTHORIZATION OF APPROPRIATIONS Sec. 702. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The CHAIRMAN. Are there amendments to title VII or the remainder of the bill?

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Vento:

-Page 69, after line 23, add the following:

TITLE VIII-CALIFORNIA MILITARY LANDS WITHDRAWAL

SEC. 801. SHORT TITLE AND FINDINGS.

(a) Short Title. -This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1994".

(b) Findings. -The Congress finds that-

(1) the Federal lands within the desert regions of California have provided essential opportunities for military training, research, and development for the Armed Forces of the United States and allied nations;

(2) alternative sites for military training and other military activities carried out on Federal lands in the California desert area are not readily available;

(3) while changing world conditions have lessened to some extent the immediacy of military threats to the national security of the United States and its allies, there remains a need for military training, research, and development activities of the types that have been carried out of Federal lands in the California desert area; and

(4) continuation of existing military training, research, and development activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.

SEC. 802. WITHDRAWALS.

(a) China Lake. -(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for-

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support; and

(D) subject to the requirements of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands, located within the boundaries of the China Lake Naval Weapons Center, comprising approximately 1,100,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal-Proposed", dated January 1985, and filed in accordance with section 803.

(b) Chocolate Mountain. -(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary

of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for-

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 226,711 acres in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Proposed-Withdrawal" dated July 1993 and filed in accordance with section 803.

(c) El Centro Ranges .-(1) Subject to valid existing rights, and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundaries of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws) but not the mineral or geothermal leasing laws. Such lands are reserved for use by the Secretary of the Navy for-

(A) defense-related purposes in accordance with the Memorandum of Understanding dated June 29, 1987, between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 46,600 acres in Imperial County, California, as generally depicted on a map entitled "Exhibit A, Naval Air Facility, El Centro, California, Land Acquisition Map, Range 2510 (West Mesa) dated March 1993 and a map entitled "Exhibit B, Naval Air Facility, El Centro, California, Land Acquisition Map Range 2512 (East Mesa)" dated March 1993.

SEC. 803. MAPS AND LEGAL DESCRIPTIONS.

(a) Publication and Filing Requirement .-As soon as practicable after the date of enactment of this title, 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 maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Natural Resources of the United States House of Representatives.

(b) Technical Corrections .-Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) Availability for Public Inspection .-Copies of such maps and legal descriptions shall be available for public inspection in the Office of the Director of the Bureau of Land Management, Washington, District of Columbia; the Office of the Director, California State Office of the Bureau of Land Management, Sacramento, California; the office of the commander of the Naval Weapons

Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma, Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) Reimbursement. -The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 804. MANAGEMENT OF WITHDRAWN LANDS.

(A) Management by the Secretary of the Interior. -(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary of the Interior

shall manage the lands withdrawn under section 802 pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this Act.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 802 may be managed in a manner permitting-

(A) the continuation of grazing pursuant to applicable law and Executive orders where [*H5573] permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation (but only on lands withdrawn by section 802(a) (relating to China Lake));

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing on the lands withdrawn under section 802(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) Closure to Public.- (1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall-

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) Management Plan.- The Secretary of the Interior (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 802 during the period of such withdrawal. Each plan shall-

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) Brush and Range Fires.- The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 802 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) Memorandum of Understanding.- (1) The Secretary of the Interior and the Secretary of the Navy shall (with respect to each land withdrawal under section 802) enter into a memorandum of understanding to implement the management plan developed under subsection (c) Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 802 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 802.

(f) Additional Military Uses.- (1) Lands withdrawn by section 802 may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands withdrawn by this title will be used for defense-related purposes other than those specified in section 802. Such notification shall indicate the additional use of uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) Management of China Lake. -(1) The Secretary of the Interior may assign the management responsibility for the lands withdrawn under section 802(a) to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary of the Interior and the Secretary of the Navy. In the case that the Secretary of the Interior assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary of the Interior) shall develop such management plan.

(2) The Secretary of the Interior shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 802(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 802(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior and annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 802(a). The Secretary of the Interior shall transmit such report to the

Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 802(a) and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management on public lands and with an appropriate memorandum of understanding between the Secretary of the Interior and the Secretary of the Navy.

(5) Neither this Act nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing and administering any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 802(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable law, but no such lease shall be issued without the concurrence of the Navy.

(6) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary of the Interior before taking action

under that section with respect to the lands withdrawn under section 802(a).

(7) Upon the expiration of the withdrawal made by subsection 802(a) or relinquishment of the lands withdrawn by that subsection, Navy contracts for the development of geothermal resources at China Lake then in effect (including amendments or renewals by the Navy after the date of enactment of this Act shall remain in effect: Provided, that the Secretary of the Interior, with the consent of the Secretary of the Navy, may offer to substitute a standard geothermal lease for any such contract.

(h) Management of El Centro Ranges. -To the extent consistent with this title, the lands and minerals within the areas described in section 802(c) shall be managed in accordance with the Cooperative Agreement entered into between the Bureau of Land Management, Bureau of Reclamation, and the Department of the Navy, dated June 29, 1987.

SEC. 805. DURATION OF WITHDRAWALS.

(a) Duration. -The withdrawal and reservation established by this title shall terminate 15 years after the date of enactment of this Act.

(b) Draft Environmental Impact Statement. -No later than 12 years after the date of enactment of this Act, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this title for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this subsection. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(c) Extensions or Renewals. -The withdrawals established by this title may not be extended or renewed except by an Act or joint resolution.

SEC. 806. ONGOING DECONTAMINATION.

(a) Program. -Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) Reports. -At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this Act and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and Natural Resources of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands; [*H5574]

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

SEC. 807. REQUIREMENTS FOR RENEWAL.

(a) Notice and Filing. -(1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 802 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) Contamination. -(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

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

(c) Decontamination. -If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation

with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) Alternatives. -If the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) Status of Contaminated Lands. -If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary of the Interior determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws-

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) Revocation Authority. - Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to remove the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall-

(1) terminate the withdrawal and reservation;

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

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

SEC. 808. DELEGABILITY.

(a) Defense.- The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) Interior.- The functions of the Secretary of the Interior under this title may be delegated, except that an order described in section 807(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 809. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this Act shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 810. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injury or damage to persons or property suffered in the course of any geothermal leasing or other authorized nonmilitary activity conducted on lands described in section 802 of this title.

SEC. 811. MILITARY OVERFLIGHTS.

(a) Effect of Act .-(1) Nothing in this Act shall be construed to-

(A) restrict or preclude continuation of low-level military overflights, including those on existing flight training routes; or

(B) preclude the designation of new units of special airspace or the establishment of new flight training routes over the lands designated by this Act for inclusion within new or expanded units of the National Park System or National **Wilderness** Preservation System.

(2) Nothing in this Act shall be construed as requiring revision of existing policies or procedures applicable to the designation of units of special airspace or the establishment of flight training routes over any Federal lands affected by this Act.

(b) Monitoring .-The Secretary of the Interior and the Secretary of Defense shall monitor the effects of military overflights on the resources and values of the units of the National Park System and National **Wilderness** Preservation System designated or expanded by this Act, and shall attempt, consistent with national security needs, to resolve concerns related to such overflights and to avoid or minimize adverse impacts on resources and values and visitor safety associated with overflight activities.

SEC. 812. TERMINATION OF PRIOR RECLAMATION WITHDRAWALS.

Except to the extent that existing Bureau of Reclamation withdrawals of public lands were identified for continuation in Federal Register Notice Document 92-4838 (57 Federal Register 7599, March 3, 1992), as amended by Federal Register Correction Notices (57 Federal Register 19135, May 4, 1992; 57 Federal Register 19163, May 4, 1992; and 58 Federal Register 30181, May 26, 1993), all existing Bureau of Reclamation withdrawals made by Secretarial Orders and Public Land Orders affecting public lands and Indian lands located within the California Desert Conservation Area established pursuant to section 601 of the Federal Land Policy and Management Act of 1976 are hereby terminated.

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record .

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

MODIFICATION TO AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I ask unanimous consent that the amendment be modified with the technical corrections that I have sent to the desk, which are non-controversial and technical in nature.

The CHAIRMAN. The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment, as modified, offered by Mr. Vento : Page 69, after line 23, add the following:

TITLE VIII-CALIFORNIA MILITARY LANDS WITHDRAWAL

SEC. 801. SHORT TITLE AND FINDINGS.

(a) Short Title .-This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1994".

(b) Findings .-The Congress finds that-

(1) the Federal lands within the desert regions of California have provided essential opportunities for military training, research, and development for the Armed Forces of the United States and allied nations;

(2) alternative sites for military training and other military activities carried out on Federal lands in the California desert area are not readily available;

(3) while changing world conditions have lessened to some extent the immediacy of military threats to the national security of the United States and its allies, there remains a need for military training, research, and development activities of the types that have been carried out on Federal lands in the California desert areas; and

(4) continuation of existing military training, research, and development activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.

SEC. 802. WITHDRAWALS.

(a) China Lake .-(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the [*H5575] boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for-

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support; and

(D) subject to the requirements of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands, located within the boundaries of the China Lake Naval Weapons Center, comprising approximately 1,100,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal-Proposed", dated January 1985, and filed in accordance with

section 803.

(b) Chocolate Mountain .-(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for-

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 226,711 acres in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Proposed-Withdrawal" dated July 1993 and filed in accordance with section 803.

(c) El Centro Ranges. -(1) Subject to valid existing rights, and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundaries of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws) but not the mineral or geothermal leasing laws. Such lands are reserved for use by the Secretary of the Navy for-

(A) defense-related purposes in accordance with the Memorandum of Understanding date June 29, 1987, between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 46,600 acres in Imperial County, California, as generally depicted on a map entitled "Exhibit A, Naval Air Facility, El Centro, California, Land Acquisition Map, Range 2510 (West Mesa) dated March 1993 and a map entitled "Exhibit B, Naval Air Facility, El Centro, California, Land Acquisition Map Range 2512 (East Mesa)" dated March 1993.

SEC. 803. MAPS AND LEGAL DESCRIPTIONS.

(a) Publication and Filing Requirement. -As soon as practicable after the date of enactment of this title, 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 maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Natural Resources of the United States House of Representatives.

(b) Technical Corrections. -Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) Availability for Public Inspection. -Copies of such maps and legal descriptions shall be available for public inspection in the Office of the Director of the Bureau of Land Management, Washington, District of Columbia; the Office of the Director, California State Office of the Bureau of Land Management, Sacramento, California; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma, Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) Reimbursement. -The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 804. MANAGEMENT OF WITHDRAWN LANDS.

(a) Management by the Secretary of the Interior. -(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary of the Interior shall manage the lands withdrawn under section 802 pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this Act.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 802 may be managed in a manner permitting-

(A) the continuation of grazing pursuant to applicable law and Executive orders where permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation (but only on lands withdrawn by section 802(a) (relating to China Lake));

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing and development and related power production activities on the lands withdrawn under section 802(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) Closure to Public. -(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall-

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) Management Plan. -The Secretary of the Interior (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 802 during the period of such withdrawal. Each plan shall-

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) Brush and Range Fires. -The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 802 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) Memorandum of Understanding. -(1) The Secretary of the Interior and the Secretary of the Navy shall (with respect to each land withdrawal under section 802) enter into to memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 802 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 802.

(f) Additional Military Uses. -(1) Lands withdrawn by section 802 may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands withdrawn by this title will be used for defense-related purposes other than those specified in section 802. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) Management of China Lake. -(1) The Secretary of the Interior may assign the management responsibility for the lands withdrawn under section 802(a) to the Secretary of the Navy who shall manage such [*H5576] lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary of the Interior and the Secretary of the Navy. In the case that the Secretary of the Interior assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary of the Interior) shall develop such management plan.

Nothing in this title shall affect geothermal leases issued by the Secretary of the Interior prior to the date of enactment of this title or the responsibility of the Secretary to administer and manage such leases consistent with the provisions of this title.

(2) The Secretary of the Interior shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands

withdrawn under section 802(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 802(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 802(a). The Secretary of the Interior shall transmit such report to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 802(a) and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management on public lands and with an appropriate memorandum of understanding between the Secretary of the Interior and the Secretary of the Navy.

(5) Neither this Act nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing and administering any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 802(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable law, but no such lease shall be issued without the concurrence of the Secretary of the Navy.

(6) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary of the Interior before taking action under that section with respect to the lands withdrawn under section 802(a).

(7) Upon the expiration of the withdrawal made by subsection (a) of section 802 or relinquishment of the lands withdrawn by that subsection, Navy contracts for the development of geothermal resources at China Lake then in effect (including amendments or renewals by the Navy after the date of enactment of this Act) shall remain in effect: Provided, That the Secretary of the Interior, with the consent of the Secretary of the Navy, may offer to substitute a standard geothermal lease for any such contract.

(h) Management of El Centro Ranges. -To the extent consistent with this title, the lands and minerals within the areas described in section 802(c) shall be managed in accordance with the Cooperative Agreement entered into between the Bureau of Land Management, Bureau of Reclamation, and the Department of the Navy, dated June 29, 1987.

SEC. 805. DURATION OF WITHDRAWALS.

(a) Duration. -The withdrawal and reservation established by this title shall terminate 15 years after the date of enactment of this Act.

(b) Draft Environmental Impact Statement. -No later than 12 years after the date of enactment of this Act, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this title for which the Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this subsection. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft

environmental impact statement.

(c) Extensions or Renewals. -The withdrawals established by this title may not be extended or renewed except by an Act or joint resolution.

SEC. 806. ONGOING DECONTAMINATION.

(a) Program. -Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title

at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) Reports.- At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this Act and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and Natural Resources of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

- (1) amounts appropriated and obligated or expended for decontamination of such lands;
- (2) the methods used to decontaminate such lands;
- (3) amount and types of contaminants removed from such lands;
- (4) estimated types and amounts of residual contamination on such lands; and
- (5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

SEC. 807. REQUIREMENTS FOR RENEWAL.

(a) Notice and Filing.- (1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 802 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) Contamination.- (1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

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

(c) Decontamination.- If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) Alternatives.- If the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) Status of Contaminated Lands.- If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary of the Interior determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws-

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) Revocation Authority.- Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant [H5577] to subsection (a), is authorized to revoke the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall-

(1) terminate the withdrawal and reservation;

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

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

SEC. 808. DELEGABILITY.

(a) Defense.- The functions of the Secretary of Defense or the Secretary of the Navy under this

title may be delegated.

(b) Interior.- The functions of the Secretary of the Interior under this title may be delegated, except that an order described in section 807(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 809. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this title shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 810. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injury or damage to persons or property suffered in the course of any geothermal leasing or other authorized nonmilitary activity conducted on lands described in section 802 of this title.

SEC. 811. MILITARY OVERFLIGHTS.

(a) Effect of Act.- (1) Nothing in this Act shall be construed to-

(A) restrict or preclude continuation of low-level military overflights, including those on existing flight training routes; or

(B) preclude the designation of new units of special airspace or the establishment of new flight training routes;

over the lands designated by this Act for inclusion within new or expanded units of the National Park System or National **Wilderness** Preservation System.

(2) Nothing in this Act shall be construed as requiring revision of existing policies or procedures applicable to the designation of units of special airspace or the establishment of flight training routes over any Federal lands affected by this Act.

(b) Monitoring.- The Secretary of the Interior and the Secretary of Defense shall monitor the effects of military overflights on the resources and values of the units of the National Park System and National **Wilderness** Preservation System designated or expanded by this Act, and shall attempt, consistent with national security needs, to resolve concerns related to such overflights and to avoid or minimize adverse impacts on resources and values and visitor safety associated with overflight activities.

SEC. 812. TERMINATION OF PRIOR RECLAMATION WITHDRAWALS.

Except to the extent that existing Bureau of Reclamation withdrawals of public lands were identified for continuation in Federal Register Notice Document 92-4838 (57 Federal Register 7599, March 3, 1992), as amended by Federal Register Correction Notices (57 Federal Register 19135, May 4, 1992; 57 Federal Register 19163, May 4, 1992; and 58 Federal Register 30181, May 26, 1993), all existing Bureau of Reclamation withdrawals made by Secretarial Orders and Public Land Orders affecting public lands and Indian lands located within the California Desert Conservation Area established pursuant to section 601 of the Federal Land Policy and Management Act of 1976 are hereby terminated.

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. Is there objection to the original request of the gentleman from Minnesota (Mr. Vento) that the amendment be modified?

Mr. HANSEN. Mr. Chairman, reserving the right to object, I yield to the gentleman to ask about the technical corrections that he just mentioned.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, my request is based on the modifications discussed with the minority to the title VIII amendments dealing with the military withdrawal. They involve adding language related to geothermal activities and the correction of a cross reference.

If the gentleman would further yield, the procedure here that I followed is simply to deal with title VIII. All of the title VII amendments will be considered in due course. It simply was a matter of trying to deal with this in an orderly manner, rather than waiting to the end of the bill. I believe the military withdrawal language and the amendment to be offered by the gentleman from California (Mr. Farr) to my language is noncontroversial. I appreciate the cooperation of the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota (Mr. Vento)?

There was no objection.

The CHAIRMAN. The gentleman from Minnesota (Mr. Vento) is recognized for 5 minutes in support of his amendment, as modified.

Mr. VENTO. Mr. Chairman, this amendment would add an additional title to the bill, dealing with military lands and overflights in the California desert.

The amendment would effect or renew the withdrawal for military purposes of certain public lands in the California desert, and would clarify the relationship between the designation of Federal lands in that area for conservation purposes and the use of other lands and associated airspaces for important military training and testing.

The provisions of this amendment are similar to ones included in the version of the California Desert Protection Act passed by the House of Representatives in 1991. It would provide the Armed Services with secure tenure on more than 1.3 million acres of lands in the California desert areas that are in daily use for very important testing and training activities.

I regret that the Senate did not complete action on the California Desert Protection Act during the last Congress. However, earlier this year the Senate did pass S. 21, which includes provisions like those in this amendment.

As we did in 1991, the Natural Resources Committee omitted such provisions from the version of the bill we reported, because we share responsibility over these matters with the Committee on Armed Services.

In developing this amendment, I have worked with Chairman Dellums and Subcommittee Chairman McCurdy , of the Armed Services Committee, and with the gentleman from Utah (Mr.

Hansen) and the gentleman from California (Mr. Farr) who both serve on the Armed Services Committee as well as on the Committee on Natural Resources. There have also been discussions with representatives of the Department of Defense and the various military services with an interest in the matters addressed by the amendment.

While there are elements of the amendment-particularly the duration of the land withdrawals for military use-that are not exactly as suggested by the services, I believe that the amendment provides the necessary security for continued military use of these withdrawal areas and the airspaces in the California desert area that are so important to maintenance of military readiness.

As I said when the House last considered this matter, it does not seem to me that there is an absolute need for Congress to legislate regarding military overflights. As a matter of law, designation of **wilderness** or national parks does not preclude continued military overflights of the lands involved.

However, because of the importance of the California desert's airspaces for military training, inclusion of such provisions is desirable in order to resolve questions that some have raised about how this bill might affect the ability of the Armed Forces to continue their overflights of the lands involved.

There will be a second-degree amendment, which is intended to be offered by the gentleman from California (Mr. Farr), that will refine somewhat the overflight language of my amendment. That second-degree amendment has been worked out through discussions between ; the natural resources Committee and the Committee on Armed Services.

For the information of the House, I am including in my statement information about the background and provisions of the amendment.

In conclusion, Mr. Chairman, I think that this amendment is appropriate as part of this bill's comprehensive blueprint for future management of Federal [*H5578] lands in the California desert, and I urge its adoption by the House.

BACKGROUND INFORMATION AND SUMMARY OF AMENDMENT

Before 1958, Federal lands in California (as in other States) were made available to the military departments for bases, training areas, and other purposes through administrative or executive actions, without the need for Congressional involvement. This was done through Public Land Orders, Executive Orders, or other measures that had the effect of withdrawing lands from operation of some or all of the otherwise applicable public lands laws (such as the Mining Law of 1872 or the Mineral Lands Leasing Act of 1920) and of limiting public access.

The extent of these military withdrawals and their long duration after the end of the Second World War and the Korean conflict led to the enactment in 1958 of the law popularly known as the "Engle Act" (P.L. 85-337). Named after the late U.S. Representative and Senator Clair Engle of California, this law provides that a peacetime withdrawal of 5,000 acres or more of public lands for military purposes can be accomplished only by Act of Congress. It also specifies that (except in certain Naval reserve areas) minerals in lands withdrawn for military purposes are under the jurisdiction of the Secretary of the Interior, but that disposition of such shall not occur in cases in which the Secretary of Defense determines that this would be inconsistent with military use of the lands.

This amendment, like Title VIII of H.R. 2929 of the 102nd Congress, would withdraw two extensive areas of land in Southern California that have long been used by the Navy, in a manner consistent with Engle Act. It would also similarly withdraw additional lands in Imperial County, referred to as the El Centro Ranges, for use by the Navy. At the time of consideration of

the 1991 legislation, agreement had not been reached between the Navy and Interior Departments concerning the extent to which such a withdrawal would be appropriate; that agreement has now been reached, and the amendment reflects and incorporates that agreement.

AREAS WITHDRAWN

The lands that the amendment would withdraw for military uses are the China Lake Naval Weapons Center ("China Lake"), of approximately 1,100, 000 acres in Inyo, Kern, and San Bernadino Counties; the Chocolate Mountain Aerial Gunnery Range ("Chocolate Mountain") in Imperial and Riverside Counties, of approximately 227,369 acres; and the El Centro Ranges in Imperial County, of approximately 46,600 acres.

CHINA LAKE

According to the Navy, China Lake is the principal Navy center for research, development, test, and evaluation of air warfare systems and missile weapon systems. The Navy has also been actively pursuing a program of developing the geothermal resources of the area for the production of electrical power. The amendment includes the same language as in the corresponding provisions of S. 21 to assure the continuation of geothermal development and utilization in the China Lake area.

CHOCOLATE MOUNTAINS

The Chocolate Mountains area is heavily used by the Marine Corps for training of pilots in air-to-air gunnery, air combat maneuvering, air-to-ground ordnance delivery, and related training activities, many involving use of live ordnance.

EL CENTRO RANGES

The California Desert Protection legislation passed by the House in 1991 addressed these lands, but did not make them subject to the military-withdrawal provisions. The public lands involved are on the west side of the Imperial Valley, and have been the subject of a series of withdrawals for reclamation purposes for many years. In 1987, the Interior Committee (now, the Committee on Natural Resources) was told that since 1954 portions of these lands had been used as target ranges by the Navy in connection with the El Centro Naval Air Station. This use was permitted by the Interior Department through a series of "memoranda of understanding," even after the enactment of the Engle Act in 1958 and the Federal Land Policy and Management Act of 1976.

The Committee was told that in 1982 the Navy concluded that although the two target ranges were used only for inert ordnance, additional controls on other uses were needed. The Committee was further informed that the Navy therefore proposed to seek a withdrawal of about 290,000 acres of public domain in the El Centro area-more than twice the public domain then being used under the existing arrangements. This evidently provoked controversy.

Subsequently, the Navy entered into a cooperative agreement with the Interior Department under which the Navy was to reduce its withdrawal request to 55,000 acres immediately around certain target areas, and would seek a right-of-way grant for additional 97,000 acres to control potential conflicts between Navy activities in the area and other uses. The Committee was told that the Navy and the Department of the Interior were planning to submit a legislative request for the 55,000 acre withdrawal before the end of 1988, but to date no such request has been submitted.

In 1987, the Committee had serious doubts about the authority of the Secretary of the Interior under existing law to permit the Navy to continue its use of public lands in the El Centro area prior to Congressional action on a withdrawal proposal. Therefore, the Committee included in

that year's bill for the withdrawal of China Lake and Chocolate Mountains provisions to explicitly authorize the Secretary of the Interior to permit the Navy to use the relevant public lands in the El Centro ranges until January 1, 1990, for the same purposes and to no greater extent than as of July 1, 1987. The intent of this was to assure that the Navy could continue to use these lands for a period of time that the Committee believed adequate for submission and consideration of a proposal for withdrawal of the affected public lands. In the same way, the corresponding provisions of H.R. 2929, as passed by the House in 1991, would have allowed this used to continue until January 1, 1994.

Since that time, the Interior Department has reached an agreement with the Navy for continued military use of about 46,600 acres of these lands, and has taken steps toward revocation of the reclamation withdrawal applicable to the remainder. Accordingly, and consistent with the requirements of the Engle Act, the amendment would statutorily withdraw 46,600 acres for continued military use by the Navy and would revoke the reclamation withdrawal applicable to these and other public lands.

This amendment, like a similar House-passed bill of 1987, is closely modelled on the omnibus Military Lands Withdrawal Act of 1986 (P.L. 99-606), which renewed the Engle Act withdrawals for areas in Nevada, Arizona, New Mexico, and Alaska. That omnibus measure was developed through negotiations between the House and Senate in the closing hours of the 99th Congress and included a number of compromises, such as agreement on 15 years as the standard period for duration of such withdrawals (as opposed to 10 years in House measures and 25 years requested by the Administration). The Natural Resources Committee has subsequently approved and the House has twice passed legislation

(including H.R. 194 by Representative Hefley) for a 15-year military withdrawal of lands in Colorado associated with Fort Carson.

The amendment would withdraw the China Lake, Chocolate Mountains, and El Centro Ranges areas for all forms of appropriation under the public lands laws, and from entry, location, and patent under the mining laws. China Lake would be withdrawn from mineral leasing but not from geothermal leasing (to accommodate the ongoing program of developing geothermal resources there); Chocolate Mountains would be withdrawn from both mineral leasing and geothermal leasing. The El Centro Ranges would not be withdrawn from either mineral or geothermal leasing.

China Lake would be reserved for use by the Secretary of the Navy for a research, development, test, and evaluation laboratory; Chocolate Mountains would be reserved for use in testing and training for aerial bombing, missile firing, tactical maneuvering, and air support; El Centro would be reserved for military uses in accordance with an existing agreement between the Navy and Interior Departments. Each area could be used for additional defense-related purposes.

The Secretary of the Interior would retain responsibility for management of the lands involved, including the preparation of land-management plans, except that in the case of China Lake this could be assigned by the Secretary of the Interior to the Secretary of the Navy (as is currently done).

The military withdrawal of the three areas would expire 15 years after the date of enactment. No later than 12 years after enactment, the Secretary of the Navy would be required to publish a draft environmental impact statement concerning any desired continuation or renewal of either or both withdrawal. Consistent with the requirements of the Engle Act, any continuation or renewal of any of these withdrawals would be by Congress.

The amendment includes the same provisions related to decontamination of the withdrawn lands as established by the omnibus withdrawal Act for the areas covered by that Act. The Navy would thus be required to maintain an ongoing program of decontamination, to the extent that funds

are made available, at least at the level of work done in fiscal 1986, with reports concerning this program to be submitted to Congress at the same time as the President's budget is transmitted.

The amendment also includes the same provisions regarding procedures for requesting continuation or renewal of the withdrawal for either or both areas as were included in the omnibus withdrawal Act of 1986 and in the 1987 House-passed bill to withdraw China Lake and the Chocolate Mountain area. Similarly, the amendment's provisions regarding immunization of the United States against damages; regulation of hunting, fishing, and trapping; and delegation of authority by the respective Secretaries are all modelled on those of P.L. 99-606.

Finally, the amendment includes provisions similar to those in Title VIII of H.R. 2929 as passed by the House in 1991 with respect to military overflights of the lands withdrawn by the amendment or the lands given **wilderness**, National Park, or other conservation status by the California Desert Protection Act. [*H5579]

AMENDMENT OFFERED BY MR. FARR OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. VENTO, AS MODIFIED

Mr. FARR of California. Mr. Chairman, I offer an amendment to the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. Farr of California to the amendment offered by Mr. Vento, as modified: On page 20 of the amendment, strike line 23 and all that follows through line 23 on page 21, and in lieu thereof insert the following:

SEC. 811. MILITARY OVERFLIGHTS.

(a) Effect of Act. -(1) Nothing in this Act shall be construed to-

(A) restrict or preclude continuation of low-level military overflights, including those on existing flight training routes; or

(B) affect the designation of new units of special airspace or the establishment of new flight training routes over the lands designated by this Act for inclusion within new or expanded units of the National Park System or National **Wilderness** Preservation System.

(2) Nothing in this Act shall be construed as requiring revision of existing policies or procedures applicable to the designation of units of special airspace or the establishment of flight training routes over any Federal lands affected by this Act.

(b) Monitoring. -The Secretary of the Interior and the Secretary of Defense shall monitor the effects of military overflights on the resources and values of the units of the National Park System and National **Wilderness** Preservation System designated or expanded by this Act, and shall attempt, consistent with national security needs, to resolve concerns related to such overflights and to avoid or minimize adverse impacts on resources and values and visitor safety associated with such overflight activities.

Mr. FARR of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FARR of California. Mr. Chairman, I rise in support of Mr. Vento 's amendment and urge my

colleagues to vote for the amendment.

As it now stands, the California Desert Protection Act would permit grazing to continue indefinitely in the Mojave National Park.

Mr. Vento 's amendment will allow current grazing permit holders to continue grazing their livestock in the park until their grazing permit expires.

Let us remember that we talking here about protecting some of the least productive grazing lands in the United States where it can take up to 160 acres of land to feed 1 cow for 1 month. Annual rain totals less than 6 inches and summer temperatures regularly approach 120 degrees.

The environmental impact of domestic livestock grazing on public lands is a controversial issue. It is undisputable however that grazing in hot desert areas like the Mojave Desert exacts a high environmental cost and causes long term environmental damage. Studies have shown that grazing is incompatible with proper management in Mojave National Park.

The November 1991 GAO report on rangeland management focused on the BLM's Hot Desert Grazing Program supports this view.

The report further emphasizes that deserts have a particularly fragile ecosystem and once damage occurs they take a long time to recover.

Research has shown that grazing has a detrimental impact on certain hot desert wildlife species, plant species, and vitally important habitat for endemic species.

Numerous desert animal and plant species have evolved elaborate survival systems to endure their harsh living conditions. Removing competition for survival by removing cattle will eliminate a significant threat to this delicate ecosystem.

I strongly urge my colleagues to support the Vento amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. FARR of California. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I wanted to thank the gentleman from California (Mr. Farr), a member of both committees, as I said, for his work on this matter. The gentleman has been very helpful.

As the gentleman has indicated, this is an agreement between the principals involved, Chairman Miller, Chairman Dellums, myself, and others, and this keeps the law in place and provides nothing in the act shall be construed to restrict or preclude low level military flights. We do enter an agreement here to provide for joint monitoring by the Department of Defense and the Department of Interior in terms of overflights over the parks and **wilderness** system.

It is a data-reporting requirement and consultation about visitors' safety and, of course, the necessity for training in these areas.

I want to make clear to my colleague from Utah and others that may be interested or aware of my interest in military overflights that this is not disruptive or does not include the provisions of restricting military overflights. It is an amendment that was shared with the minority. I would be happy to respond to further questions concerning it, but it is, as presented by the gentleman from California (Mr. Farr), a straightforward agreement between the two committees.

I thank the gentleman from California (Mr. Farr) for yielding to me and for his help and that of

the gentleman from Utah (Mr. Hansen).

AMENDMENT OFFERED BY MR. HANSEN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. VENTO, AS MODIFIED

Mr. HANSEN. Mr. Chairman, I offer an amendment as a substitute for the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. Hansen as a substitute for the amendment offered by Mr. Vento , as modified:

In lieu of the matter proposed to be inserted, insert:

TITLE VIII-MILITARY LANDS AND OVERFLIGHTS

SEC. 801. SHORT TITLE AND FINDINGS.

(a) Short Title. -This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1994".

(b) Findings. -The Congress finds that-

(1) military aircraft testing and training activities as well as demilitarization activities in California are an important part of the national defense system of the United States, and are essential in order to secure for the American people of this and future generations an enduring and viable national defense system;

(2) the National Parks and **wilderness** areas designated by this Act lie within a region critical to providing training, research, and development for the Armed Forces of the United States and its allies;

(3) there is a lack of alternative sites available for these military training, testing, and research activities;

(4) continued use of the lands and airspace in the California desert region is essential for military purposes; and

(5) continuation of these military activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.

SEC. 802. MILITARY OVERFLIGHTS.

(a) Overflights. -Nothing in this Act, the **Wilderness Act**, or other land management laws generally applicable to the new units of the National Park or **Wilderness** Preservation Systems (Or any additions to existing units) designated by this Act, shall restrict or preclude low-level overflights of military aircraft over such units, including military overflights that can be seen or heard within such units.

(b) Special Airspace. -Nothing in this Act, the **Wilderness Act**, or other land management laws generally applicable to the new units of the National Park or **Wilderness** Preservation Systems (or any additions to existing units) designated by this Act, shall restrict or preclude the designation of new units of special airspace or the use or establishment of military flight training routes over such new park or **wilderness** units.

(c) No Effect on Other Laws. -Nothing in this section shall be construed to modify, expand, or diminish any authority under other Federal law.

SEC. 803. WITHDRAWALS.

(a) China Lake. -(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for-

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support;

(D) geothermal leasing and development and related power production activities; and

(E) subject to the requirements of section 805(f), other defense-related purposes consistent with the purposes specified in this paragraph. [*H5580]

(2) The lands referred to in paragraph (1) are the Federal lands located within the boundaries of the China Lake Naval Weapons Center, comprising approximately one million one hundred thousand acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal-Proposed", dated January 1985.

(b) Chocolate Mountain .-(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for-

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 805(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately two hundred twenty-six thousand seven hundred and eleven acres in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Proposed-Withdrawal" dated July 1993.

SEC. 804. MAPS AND LEGAL DESCRIPTIONS.

(a) Publication and Filing Requirement .-As soon as practicable after the date of enactment of this title, the Secretary 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 maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Natural Resources of the United States House of Representatives.

(b) Technical Corrections .-Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary may correct clerical and typographical errors in such maps and legal descriptions.

(c) Availability for Public Inspection .-Copies of such maps and legal descriptions shall be available for public inspection in the appropriate offices of the Bureau of Land Management; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma, Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) Reimbursement .-The Secretary of Defense shall reimburse the Secretary for the cost of implementing this section.

SEC. 805. MANAGEMENT OF WITHDRAWN LANDS.

(a) Management by the Secretary of the Interior .-(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary shall manage the lands withdrawn under section 803 of this title pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this title.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 803 may be managed in a manner permitting-

(A) the continuation of grazing pursuant to applicable law and Executive orders were permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation (but only on lands withdrawn by section 803(a) (relating to China Lake));

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing and development and related power production activities on the lands withdrawn under section 803(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) The Secretary may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) Closure to Public .-(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of

the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall-

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) Management Plan .-The Secretary (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 803 of this title during the period of such withdrawal. Each plan shall-

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) Brush and Range Fires .-The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 803 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) Memorandum of Understanding .-(1) The Secretary and the Secretary of the Navy shall (with respect to each land withdrawal under section 803 of this title) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 803 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 803.

(f) Additional Military Uses. -Lands withdrawn under section 803 of this title may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary in the event that the lands withdrawn by this title will be used for defense-related purposes other than those specified in section 803. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require the additional or more stringent condition or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) Management of China Lake. -(1) The Secretary may assign the management responsibility for the lands withdrawn under section 803(a) to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary and the Secretary of the Navy: Provided, That nothing in this subsection shall affect geothermal leases issued by the Secretary prior to the date of enactment of this title, or the responsibility of the Secretary to administer and manage such leases, consistent with the provisions of this section. In the case that the Secretary assigns such management responsibility to the Secretary of the

Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary) shall develop such management plan.

(2) The secretary shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 803(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 803(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 803(a). The Secretary shall transmit such report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 803(a) and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management on public lands and with an appropriate memorandum of understanding between the Secretary and the Secretary of the Navy.

(5) Neither this title nor any other provision of law shall be construed to prohibit the Secretary from issuing and administering any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 803(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable law, but no such lease shall be issued without the concurrence of the Secretary of the Navy. [*H5581]

(6) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary before taking action under that section with respect to the lands withdrawn under section 803(a).

(7) Upon the expiration of the withdrawal or relinquishment of China Lake, Navy contracts for the development of geothermal resources at China Lake then in effect (as amended or renewed by the Navy after the date of enactment of this title) shall remain in effect: Provided, that the Secretary, with the consent of the Secretary of the Navy, may offer to substitute a standard geothermal lease for any such contract.

SEC. 806. DURATION OF WITHDRAWALS.

(a) Duration. -The withdrawals and reservations established by this title shall terminate twenty-five years after the date of enactment of this title.

(b) Draft Environmental Impact Statement. -No later than twenty-two years after the date of enactment of this title, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this title for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this section. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters including in such draft environmental impact statement.

(c) Extensions or Renewals. -The withdrawals established by this title may not be extended or renewed except by an Act or joint resolution of Congress.

SEC. 807. ONGOING DECONTAMINATION.

(a) Program. -Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) Reports. -At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this title and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the United States Senate and to the Committees on appropriations, Armed Services, and Natural Resources of the United States House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including-

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full contamination of such lands and the estimate of the time to complete such decontamination.

SEC. 808. REQUIREMENTS FOR RENEWAL.

(a) Notice and Filing. -(1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 803 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary of the Navy shall

file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary of the Navy shall file a notice of intention to relinquish with the Secretary.

(b) Contamination. -(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of the Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

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

(c) Decontamination. -If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) Alternatives. -If the Secretary, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary shall not be required to accept the land proposed for relinquishment.

(e) Status of Contaminated Lands. -If, because of their contaminated state, the Secretary declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws-

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) Revocation Authority. -Notwithstanding any other provision of law, the Secretary, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary shall publish in the Federal Register an appropriate order which shall-

(1) terminate the withdrawal and reservation;

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

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands law, including the mining laws.

SEC. 809. DELEGABILITY.

(a) Department of Defense. -The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) Department of the Interior. -The functions of the Secretary under this title may be delegated, except that an order described in section 808(f) may be approved and signed only by the Secretary, the Under Secretary of the Interior, or an Assistant Secretary of the Department of

the Interior.

SEC. 810. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this title shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 811. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injury or damage to persons or property suffered in the course of any geothermal leasing or other authorized nonmilitary activity conducted on lands described in section 803 of this title.

SEC. 812. EL CENTRO RANGES.

The Secretary is authorized to permit the Secretary of the Navy to use until January 1, 1997, the approximately forty-four thousand eight hundred and seventy acres of public lands in Imperial County, California, known as the East Mesa and West Mesa ranges, in accordance with the Memorandum of Understanding dated June 29, 1987, between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy. All military uses of such lands shall cease on January 1, 1997, unless authorized by a subsequent Act of Congress.

Mr. HANSEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. HANSEN. Mr. Chairman, one of the problems we have in America today, I am saying this as a member of the Committee on Armed Services as well as a member of the Committee on Natural Resources, is training. Little by little we have been taking away from the areas that we can train in [*H5582] America. In fact, most of our places that we can train we do not have unlimited air space, except for the Utah Test and Training Range, which is zero to 58,000 feet. It is the only place we can test.

As this is being given to us and restricted more and more, the military finds themselves in a very precarious situation. They are not in a position that they can go wherever they want to go and train, and they should not go wherever they want to go. But they should have the ability to train our pilots.

The whole thing of the cold war was training. Many of our people in the military started out their careers as Second Lieutenant and ended at whatever, and all they did was train the entire time. But they were trained, and they were perfected and ready to go at the drop of a hat and help us out.

Now we find ourselves more and more, **wilderness** areas come along, more and more parks come along, remember the time over the Grand Canyon when we decided we could not fly up and down the Grand Canyon?

At the time I remember the chairman, Chairman Udall, confessed to flying a Cessna down the middle of the Grand Canyon. I confessed to flying a Piper Supercub down the Grand Canyon. We cannot do those things anymore.

Now we find ourselves in a position, as we become more restrictive, that we cannot train in that

area.

The area that we are talking about is the A-10. They call it the Warthog affectionately. That is an airplane that they train in that particular area. Go back to the Persian Gulf war. That was the plane that was so effective on air-to-ground. That was the plane that stopped those tanks from Saddam Hussein. Those people did a super job with it at that point.

Now, as we go through restrictive language, as we start tightening that up, more and more we are taking away the ability for our pilots and others to learn to fly these aircraft. They are not going to learn to do it in a training simulator. They have to have their hands on the controls. They have to be able to do it.

All we are asking here is to accept the same language that the Senate has passed. That is all we are asking. The Senate has already passed this particular language.

What this does, it opens it up a wee bit more on military overflights to **wilderness** and parks across the country and not just restricted to the desert, the California desert bill.

I think this a good amendment, a very innocuous amendment, kind of a housekeeping measure. I personally feel it would be a better piece of legislation than what we have before us.

Mr. VENTO. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

This amendment really is out of order, according to our rules. The gentleman did not share the fact that he was going to offer the amendment or I would have tried to dissuade him from doing so. I think his last statement points up the problem with the Senate insistence on dealing with something that really does not relate to this act.

We are trying to accommodate the concerns and, as a consequence, end up with the dilemma that we now have on the floor in terms of a full-fledged debate on military overflights which really should be considered with the Committee on Armed Services and the Natural Resources Committee process.

The fact is that this amendment applies to all sorts of other laws unrelated to the subject before the House. The amendment that I have proposed in terms of title VIII, in agreement with the Committee on Armed Services, actually provides for a longer period of withdrawal for 15 years, not until just 1997, as does the amendment of the gentleman from Utah.

Third, the gentleman from Utah is not even really dealing with the El Centro withdrawal. The gentleman from Utah is not dealing with the 46,000 acre request of the Department of Defense that withdraws the El Centro area from consideration, which is a major concern of the Department of Defense with regards to the California desert.

We are trying to deal with the Miller-Dellums-Vento title VIII. We do not, in fact, as I said to the gentleman in my previous remarks before I was aware that he was going to offer this, we do not deal with or try to change the necessary air space concerns. There are problems out there with military aircraft overflights. That is why I have submitted legislation on the subject and why the gentleman from Oklahoma (Mr. McCurdy) and myself and members of the respective committees have had hearings on this specific issue.

This does not change the basic tenor. What is being proposed here by the Senate and by the gentleman from Utah is to in fact decide that issue in favor of, and on this bill, in favor of the military with no limitations whatsoever. The Vento amendment doesn't change the basic configuration of what the agreements had been in terms of air space reservation.

The Hansen substitute tries to decide it all in 1 day. This is a one-sided amendment. There has been no consultation. There has been no agreement on this amendment. I would hope that the gentleman would not pursue this amendment.

I can assure him that the issue, as he knows, he was in attendance at the hearing, is being addressed. We are aware of this problem, and I would hope that we would not pursue this particular amendment, because I think it is just one area of disagreement more in the House that we do not need.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, if I may, I thank the gentleman for yielding to me. On page 4, the El Centro ranges, we would be more than happy to accept that by unanimous consent.

Mr. VENTO. Mr. Chairman, I am not going to agree to that based on the tenor of today's debate and the way that this was brought up. I think that we have striven to keep this military withdrawal a non-issue in the House in the sense that it has been agreed to by the committees. This amendment, as the gentleman should know, the Lewis amendment initially submitted is out of order. It simply is not valid in terms of consideration under the rules of the House, but for the fact that it was offered in the way that it was offered, it would have been objected to.

So at this particular point, I think if there is no other alternative, the gentleman is going to pursue it, I think this amendment richly deserves to be defeated. I would urge the Members of the House to defeat this amendment.

This has nothing to do with the topic we are trying to accommodate and deal with the problems of the Department of Defense. This has nothing to do with the Desert bill in a sense other than the fact that the Senate is attempting to bootstrap this onto the legislation, and the gentleman from Utah has picked up on that theme.

We have tried to work this out. The Committee on Armed Services agrees with the language that we submitted, and the Committee on Natural Resources agrees with it.

The Hansen amendment should be defeated. I would urge Members to do so.

1240

Mr. LEWIS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the amendment offered as a substitute by the gentleman from Utah (Mr. Hansen). I would like to ask the gentleman a couple of questions, if I might, Mr. Chairman.

It is my understanding, Mr. Chairman, I would say to the gentleman from Utah (Mr. Hansen), that his substitute is a reflection of that which was finally agreed to in the other body and in the committee hearings relative to military overflight.

Mr. HANSEN. Will the gentleman yield, Mr. Chairman?

Mr. LEWIS of California. I am happy to yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I would tell the gentleman that that is exactly right. This has been kind of a tacky issue on both the Senate side and on this side on what would be military overflight. I am not in any way discounting the good work of the chairman, the gentleman from

Minnesota (Mr. Vento), but I think this is one that opens it up, that makes it easier, and would not be as restrictive as the language we were working with on the House side. [*H5583]

Mr. Chairman, I personally feel this is the kind of language that would be beneficial to our military people, and I think it would take care of many of the problems we have been encountering. I may add to what the gentleman from California (Mr. Lewis) has brought up, little by little we see more restrictions coming in there. We do not know if we are going to have any place left for our people to have the idea of testing.

Also, Mr. Chairman, many of these testing ranges, when we talk to the Pentagon, are being considered for being closed, so we are going to get to the point that I do not know where we are going to test. I imagine Siberia, if we could work something out with those folks, is about the last place we could test that someone is not going to be upset with us or worried about ruining their **wilderness** trip or hearing an airplane or having an experience where they are completely silent.

I think people have to accept the fact that this has to be done and it is part and parcel of what we do in the military, and an extremely important part.

Mr. LEWIS of California. Mr. Chairman, I thank the gentleman. My concern about the Vento proposal versus this substitute is that every indication we received as this bill went through the complete process in the House was that the committee was avoiding military language while in committee, because they essentially wanted to avoid re-referral to the appropriate policy committee that really should be dealing with this issue.

Mr. Chairman, it is a pretty fundamental question relative to those training grounds that the gentleman from Utah (Mr. Hansen) is talking about. Military overflight is very, very significant and potentially impacts very greatly the ability we have to effectively train our troops, particularly the pilots who fly our airplanes. There is little doubt that the Senate dealt with this matter after considerable struggle, debate, and compromise. Senator Nunn, among others, apparently served as the driver behind the language that is part of this substitute.

The point is, Mr. Chairman, that we want to make certain that military overflight does not interfere across the country with training processes that are so vital to our national interest. If indeed the gentleman from Minnesota (Mr. Vento) had chosen to present this amendment or this proposal in the committee, or in his subcommittee, that would be another circumstance. It was clear that they wanted to avoid the Armed Services committee which really understands this issue. What my colleague (Mr. Hansen), is attempting to do here is essentially take the language of that compromise that took place in the other body, use it as a substitute here, and then negotiate the process out as the bill goes to conference.

Mr. Chairman, indeed, I urge the House to support the substitute offered by my colleague, the gentleman from Utah (Mr. Hansen).

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I want to explain to the gentleman that the concern was not to avoid it. We worked with the Committee on Armed Services. This is not the Vento amendment, it is the Miller-Dellums amendment we are dealing with, and it does include the El Centro. In fact, we have made several changes that are a compromise. For instance, removing to the **wilderness** area from Death Valley the 17,000 acres was another compromise. There have been a number of compromises made.

Mr. Chairman, the fact is that the language from the Senate has not been heard in any

committee. Nobody knows what it is. It has not been considered by any of the committee members. It is simply a matter that has not been exposed to the light of the day. It does not accomplish what needs to be done in terms of El Centro and some of the other issues in the desert that are at the insistence of the Members. The delegation wanted this included in the withdrawal. It does not withdraw wrongly, it just does not do the job, so it is basically throwing out what has been.

If we go to conference with the same language, there will be no negotiations.

Mr. LEWIS of California. Mr. Chairman, if I could reclaim my time, if the gentleman would agree with me that this is a complicated issue and we ought to send this bill with this matter to the Committee on Armed Services of the House, all right.

Mr. VENTO. Mr. Chairman, if the gentleman will continue to yield, if we act on this, it will be all done. The Senate language will be the same. There will be no consideration or modification of this. That is why I am urging the rejection of the Hansen amendment.

Mr. LEWIS of California. Frankly, Mr. Chairman, I am very disconcerted by the fact that the committee has done all that it can by their past actions to avoid input from, as we have discussed many times, those Members who are elected to represent the desert by way of consultation. It is very clear that there was some attempt to avoid the Committee on Armed Services in the House as well, a re-referral.

In this case, Mr. Chairman, I would certainly tend to put my faith in the work that was done by the likes of Senator Nunn on the Senate side. I would urge my colleagues to support the proposal of the gentleman from Utah (Mr. Hansen).

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Farr) to the amendment offered by the gentleman from Minnesota (Mr. Vento), as modified.

The amendment to the amendment, as modified, was agreed to.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, once again, unfortunately, our colleague, the gentleman from California (Mr. Lewis), has provided some kind of capital based on his theory and his construction of how this bill was considered, which was a very open process. Any and all amendments could have been offered in committee. Some were and some were not. The fact is that at the time we were considering this legislation, the Committee on Armed Services was considering their authorization bill and getting ready to bring that to the floor, and we told them in advance that this is, in fact, what we were going to do. We sat down in advance of the bill leaving our committee. After it left our committee with the people of the gentleman from California (Mr. Dellums), with the people of the gentleman from Utah (Mr. Hansen), with the people of the gentleman from Oklahoma (Mr. McCurdy) on the Committee on Armed Services, they reviewed these provisions. That is why the chairman, the gentleman from California (Mr. Dellums) has signed off on this legislation contingent upon the Farr amendment being adopted, which has now been adopted, and clearly the Vento amendment more ;clearly reflects the needs of the withdrawal proposals within the California Desert Act.

Mr. Chairman, I would hope we would go along with what the Committee on Armed Services of this House has considered, both the gentleman from Oklahoma (Mr. McCurdy) and the chairman, the gentleman from California (Mr. Dellums), with what we have considered and addressed this. It is very interesting that the criticism is that we did not consider it with the Committee on Armed Services, when in fact we did, and yet the gentleman supports legislation from the Senate that never went to committee, that they never had a hearing on.

We can understand that the gentleman from California (Mr. Lewis) wants to act like he fell off the back of the vegetable truck and found himself in Congress this morning. He is a very clever member of the Committee on Appropriations, very skilled, but in fact his arguments ought to be rejected. We ought to get on with the one amendment that has been addressed by both the Committee on Armed Services, signed off by the chairman, our committee, and addresses the problems of the California Desert Protection Act as it affects military overflights and maneuvers. I would hope we would consider the Vento amendment as now amended by the Farr amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah (Mr. Hansen) as a substitute for the amendment offered by the gentleman from Minnesota (Mr. Vento, as modified, as amended. [*H5584]

The amendment offered as a substitute for the amendment, as modified, as amended, was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. Vento), as modified, as amended.

The amendment, as modified, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to title VII?

AMENDMENT OFFERED BY MR. DUNCAN

Mr. DUNCAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Duncan: Strike Section 702 in its entirety and insert the following:

"Sec. 702.

Authorization of Appropriations. There are hereby authorized to be appropriated to carry out the purposes of the Act an amount not to exceed \$ 36 million for all additional construction and operational costs over the next 5 years and \$ 300 million for all land acquisition costs. No funds in excess of these amounts may be used for any purpose authorized under this Act without additional, specific authorization of an Act of Congress. Provided further, that operational funding and staffing to support new National Park Service responsibilities established pursuant to this Act may not be reallocated from any National Park Service area outside the State of California."

Mr. DUNCAN. (during the reading) Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

MODIFICATION TO AMENDMENT OFFERED BY MR. DUNCAN

Mr. DUNCAN. Mr. Chairman, I ask unanimous consent that the amendment be modified.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment, as modified, offered by Mr. Duncan : Strike the amendment in its entirety and insert the following:

APPROPRIATIONS Sec . 702. There are hereby authorized to be appropriated to the National Park Service and Bureau of Land Management to carry out the purposes of this Act an amount not to exceed \$ 36,000,000 for additional administrative and construction costs over the fiscal year 1995-1999 period and \$ 300,000,000 for all land acquisition costs. No funds in excess of these amounts may be used for construction, administration, or land acquisition authorized under this Act without a specific authorization in an Act of Congress enacted after the date of enactment of this Act.

Mr. DUNCAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The CHAIRMAN. The amendment is modified.

The gentleman from Tennessee (Mr. Duncan) is recognized for 5 minutes in support of his amendment, as modified.

Mr. DUNCAN. Mr. Chairman, the amendment I offer today is one which I feel can and should be supported by anyone who is in the least concerned about either our tremendous national debt and the impact of this legislation on our taxpayers, or this country's great National Park System.

Mr. Chairman, my amendment simply replaces the open-ended "such sums as may be necessary" language currently in the bill with the Congressional Budget Office estimate of \$ 336 million.

Mr. Chairman, the National Park Service already faces a 37-year backlog in funds for development of existing parks and a 25-year backlog in funding for land acquisition at existing parks.

H.R. 518, as reported by the Natural Resources Committee, ignores both of these considerations.

Instead, it authorizes unlimited expenditures, funds which will come from the already underfunded National Park Service.

1250

In the State of California alone, the National Park Service reports a shortfall of \$ 936.4 million for construction and land acquisition and \$ 31.8 million for annual operations at its existing 20 National Park Service areas in that State.

I would like to quote from Senator Byrd 's floor statement when he spoke in opposition to this bill in the other body:

We cannot adequately maintain the parks that we now have, nor buy the lands which the authorizing committees have told us to buy. Having three new beautiful national parks would be

nice. In an age when the United States enjoyed small deficits, creating new parks would be desirable, but we, in this Chamber, have to come to grips with the realities of the age in which we live. One does not go out and buy a Cadillac when one cannot make payments on the family Ford.

To address this concern, my amendment limits the amount that can be spent to implement this bill based on the amount projected by the Congressional Budget Office.

According to the Congressional Budget Office, this measure will cost between \$ 100 and \$ 300 million for land acquisition and \$ 36 million in additional costs over the next 5 years for construction and administration.

I have a letter from Secretary Babbitt, which I will insert into the Record, in which he asserts that based on the experience of his Department in implementing similar legislation, the cost of H.R. 518 will be less than the amount estimated by CBO.

Certainly, this amendment does not totally solve the problems in this bill of unfunded mandates for our National Park System, but it does institute some degree of accountability.

It puts in place a very liberal and feasible ceiling on the total cost of this effort, which can be enforced and monitored during the annual appropriation process.

The fact is that funds for operating our existing park areas are not likely to see increases in the near future.

Further, Secretary Babbitt recently ordered the National Park Service to cut 1,325 positions, about 7 percent of their work force.

Last month, in testimony before the Senate, National Park Service Director Roger Kennedy stated that it was his intent to take personnel from other existing National Park Service areas in order to staff the 350 vacant positions at the proposed new Presidio National Park in San Francisco.

Mr. Chairman, many National Park Service areas across this country cannot afford to take any more cuts in funding or personnel. I know this is true of the Great Smoky Mountain National Park, part which is in my district.

Ninety percent of the lands addressed in this bill are already owned by the Federal Government, and there are already nearly 4 million acres of Mojave and Sonoran Desert lands in the National Park System today.

The only thing this bill really provides is a more expensive way to manage these 8 million acres, which will result in less economic opportunity and fewer jobs for Californians.

I believe it is not in the national interest to take money from other National Park Service areas to implement this legislation.

Let me make clear, so that my colleagues understand, my amendment simply replaces the open-ended "such sums as may be necessary" language in this bill with the Congressional Budget Office estimate of \$ 336 million, which is greater than the amount Secretary Babbitt says we need to implement this bill.

This is a very reasonable and sound amendment. The fact is that we cannot continue to pass bills around here that provide such sums as may be necessary. We simply cannot afford to operate like this anymore.

We always get low ball estimates on the front end of almost every project. My amendment leaves a huge amount of funding for this legislation, but it still sets at least some type of cap and gives us a little more certainty on the total cost. The American people do not want us passing bills when we have no idea or at least no limitation on what the actual cost will be.

I urge support for my amendment.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman. If I might ask the author of the amendment a question, it is my understanding that the intent of the amendment is to place a cap of \$ 36 million over and above fiscal year 1994. Is that correct?

Mr. DUNCAN. Mr. Chairman, will the gentleman yield? [*H5585]

Mr. MILLER of California. I yield to the gentleman from Tennessee.

Mr. DUNCAN. That is correct.

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent that that be inserted into the amendment and then we would be clear on that.

Mr. DUNCAN. Mr. Chairman, I have no objection to that.

The CHAIRMAN. The gentleman from California (Mr. Miller) would have to present a modification to the desk.

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent to modify the agreement to reflect that it is over and above the cost of fiscal year 1994.

The CHAIRMAN. The Chair would like to have that in writing from the gentleman from California (Mr. Miller).

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Minnesota.

Mr. VENTO. I would just on the general topic while we are getting that prepared so that it will be in writing, I think it is important, Mr. Chairman, there are a couple of elements here that I think should be considered. Obviously here we are dealing with a piece of the California desert, the park areas, and treating them separately from the BLM **wilderness** managed areas and the other lands that will be managed in a general manner. Clearly because of the expansion of Death Valley and Joshua Tree, we have BLM lands that are being transferred to the Park Service including the east Mojave area. That will free up dollars or should free up some dollars from BLM which is now managing those lands and they will have to be, of course, dedicated or partially dedicated to the Park Service management of the lands that they will be absorbing in this particular instance.

Mr. Chairman, I think it is important to recognize that Death Valley and Joshua Tree monuments now being expanded and made parks by this bill already have base budgets which I think the gentleman from California (Mr. Miller) has rightly stated that the 1994 appropriation or authorization ought to be built upon.

I agree, frankly, with the concern of the gentleman from Tennessee (Mr. Duncan) about stating specifically insofar as we have information as to what the development ceiling, what the land ceilings ought to be. If there are difficulties with that, if there are special expenditures that are

being made that are unusual, they can come back before the committee to explain them. I would like to state as the gentleman from California continues to yield to me that there has been a lot of discussion about the backlog in terms of park dollars. We are getting some specific information. I might say that I have repeatedly tried to qualify or tried to find specific information from the current Secretary of Interior and from the Park Director about these backlogs cost statement. In fact, the first backlog discussions occurred because of GAO studies initiated by Congress and instigated by Congress and questions as to what the backlog problems were. They are, in fact, not even half as much as some of the explanations and some of the material that has been passed around and suggested. I will not go through it, but it is substantially less and a substantial amount of it is in roads, in highway construction dollars, some in park construction dollars, some in unprioritized construction, and amazingly over a \$ 1 billion backlog in land purchases.

Of course we have repeatedly, during the 1980's, talked about the shortfalls in the land water conservation fund and the fact that it was not carrying out the intended task and policy; the result has been, of course, the land costs within the parks have dramatically increased during that period of time. As many of the Members and committees had predicted.

I thank the gentleman from California for yielding and for my opportunity to point these differences out.

I think he now has his amendment ready.

Mr. MILLER of California. I thank the gentleman for his comments.

MODIFICATION OFFERED BY MR. MILLER OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. DUNCAN, AS MODIFIED

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent that the amendment be modified so that there be inserted after "36,000,000" the phrase, "over and above that provided in fiscal year 1994."

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Mr. Miller of California to the amendment offered by Mr. Duncan , as modified: After "\$ 36,000,000" insert "over and above that provided in fiscal year 1994".

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. Miller) that the amendment be modified?

There was no objection.

The text of the amendment, as modified, is as follows:

Strike the amendment in its entirety and insert the following:

APPROPRIATIONS Sec. 702. There are hereby authorized to be appropriated to the National Park Service and Bureau of Land Management to carry out the purposes of this Act an amount not to exceed \$ 36,000,000 over and above that provided in fiscal year 1994 for additional administrative and construction costs over the fiscal year 1995-1999 period and \$ 300,000,000 for all land acquisition costs. No funds in excess of these amounts may be used for construction, administration, or land acquisition authorized under this Act without a specific authorization in an Act of Congress enacted after the date of enactment of this Act.

Mr. HANSEN. Mr. Chairman, I move to strike the last word.

(Mr. HANSEN asked and was given permission to revise and extend his remarks.)

Mr. HANSEN. Mr. Chairman, I rise in support of the Duncan amendment as modified by the gentleman from California.

Mr. Chairman, I feel we have before us an excellent amendment which is something long overdue in this House. The gentleman from Tennessee (Mr. Duncan) has brought up a very realistic point talking about what can and cannot be done with the money that we appropriate for various things.

I think if people look at this California **wilderness** bill and the three parks that are inherent in it, have to realize that from time to time we miss the amounts of money that go on around here. They used to say in the construction business, "Whenever you build a house, one thing you should remember and you will not be frustrated, one, it is going to take longer and, two, it will cost more."

Mr. Chairman, that seems to be a standard around here, also. To give an example of that as the gentleman from Tennessee (Mr. Duncan) pointed out, we always get the low ball estimate and it does not turn out that way. Medicare passed in the House and Senate years ago and this body and the other body missed it the first year by 300 percent.

1300

Now, you take 300 percent in the insurance business, if they miss a line by 6 percent, they go broke. So it seems to me it would be an interesting study for someone at some time to figure out all the things we say it is going to cost and then what it really costs, and we will find we give a lowball estimate on this almost every time.

There was an interesting discussion between the chairman, the gentleman from Minnesota (Mr. Vento), and others about what the costs of parks are. As we get into some of these particular areas, we find there is a difference of opinion, if I may say to my friend, the gentleman from Minnesota, as to what it costs on the land and water money, what it costs for infrastructure of parks, and I personally feel that the gentleman from Tennessee (Mr. Duncan) has come up with an excellent amendment, one we should probably consider in many pieces of legislation around here, and we would probably be in better shape as far as worrying about the estimated costs that are going to come forward.

So with this very reasonable amendment, I would like to offer my support and urge the Members of this body to support it as it comes up for a vote.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I want to emphasize we do support this. The gentleman has been productive in terms of producing specific language. We like to [*H5586] have specifics. We want accurate information as far as the costs are concerned.

I might say that it is to no one's advantage to either overstate or understate what the costs are. There is a significant backlog in land and construction projects and highway and road projects within the parks. We should recognize that as we are dealing with the issue.

I wanted to assure the gentleman that that is my interest, as it is his.

Mr. HANSEN. I appreciate the assurance of the gentleman from Minnesota. I think, if you do any traveling this year and stop in a park, talk to the superintendent about the backlog he has got in infrastructure. You have got a whole day of listening to him. They all seem to be in that position.

Mr. LEWIS of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and Members, I think the amendment by my colleague, the gentleman from Tennessee (Mr. Duncan), is a very important amendment, for the language of the bill otherwise would allow for the expenditure of such sums as may be necessary for the entire process to consume.

It is very apparent by the history of some of these efforts that we need to be rather specific in making certain that there is some dollar limitation on legislation which is passed on the floor of the House after this committee has worked its will. As an Appropriations Committee member, I make that point in a very special way.

In the Senate when this item was considered, the chairman of the Senate Appropriations Committee, Senator Robert Byrd , suggested that we have severe difficulty with the cost of these programs and indicated that someone does not go out and buy a Cadillac when one cannot make the payments on the family Ford. What he was really referring to essentially is this, we can't pay for the operation, maintenance, and land acquisition of our current park system.

Let me share with the House one example of this: On August 10, 1988, the House debated the Manassas National Battlefield Park amendments. The Congressional Budget Office estimated this acquisition would cost roughly \$ 13 million. Many of my colleagues suggested the Manassas bill could cost as much as \$ 100 million.

My colleague, the gentleman from Minnesota (Mr. Vento), a member of the Natural Resources Committee, said, and I quote, "The fact is that there have been a lot of scare tactics used on this floor throughout the debate. The scare tactic is that somehow this bill is going to cost \$ 100 million. The developer paid less than \$ 10 million for it less than 2 years ago." Mr. Vento said, "The Congressional Budget Office reports the assessed value at \$ 13.6 million."

Well, my friends, the Manassas legislation has cost the taxpayers well over \$ 150 million, and the acquisition is not complete yet.

Obviously this was not a scare tactic, but it is, to say the least, frightening. The CBO estimate for just land acquisition for H.R. 518 is between \$ 100 million to \$ 300 million. Based on the Manassas battlefield estimate, the actual cost of land acquisition, I would not really suggest this would ever happen, but just think about it. It could be between \$ 1 billion and \$ 3 billion.

During this time of increased fiscal awareness, is the House really prepared to pass legislation with a ;price tag this high? My constituents want Congress to cut spending first, not continue to increase the deficit.

In California, there are already 20 units of the National Park System with 22,000-plus acres of authorized but unacquired lands. Estimates vary, but land acquisition costs from the Santa Monica Mountains National Scenic Area alone have been estimated at \$ 500 million to \$ 1 billion and are climbing every day.

To put this in perspective, Congress appropriates between \$ 80 and \$ 100 million a year for land acquisition throughout the entire National Park System. But the value of the backlog of unacquired lands is really in the billions.

Why should we obligate a large expenditure of funds that should, instead, go to existing units of the National Park System? Should we not preserve what we have already designated before we

create new mandates?

It is no wonder the American people are faced with a burgeoning Federal deficit.

This next chart, my colleagues and Members, kind of outlines in California the budget shortfalls at selected locations in our State. At Yosemite, no minor park of some interest, annual operating shortfall of \$ 9.4 million; construction and land acquisition shortfall of \$ 394 million. But let us say we are not worried about all the rest of these, but let us go down to the Channel Islands National Park, one of our last actions. There is a \$ 3.3 million shortfall in operating costs, annual operating costs; \$ 62 million in construction and land acquisition.

To say the least, we have promised an awful lot more than we are able to fully fund by the work of this fine committee that has this bill on the floor today.

Unlike many of our national parks, the California desert is not threatened from overdevelopment. It is more appropriately and cost-effectively managed by the Bureau of Land Management.

Desert legislation must balance desert protection with economic preservation. The bill before us today, H.R. 518, fails this criteria test.

However, legislation introduced by my desert colleagues and I does pass this test. The only problem is in the past we have not been able to get that legislation set for hearing in the committee.

The CHAIRMAN. The time of the gentleman from California (Mr. Lewis) has expired.

(By unanimous consent, Mr. Lewis of California was allowed to proceed for 1 additional minute.)

Mr. LEWIS of California. Mr. Chairman, the reality is that across the country in park after park and **wilderness** after **wilderness** we find ourselves in the circumstances where our committee puts up a big wish list, considering what they would like to do in terms of expanding Federal ownership of public lands, never considering how you pay for it. The reality is that we are faced with a \$ 4 trillion deficit, and every extra dime that this committee recommends that we spend, no matter how we should pay for it, just adds to that deficit.

The desert of California is doing mighty well by itself without my colleagues from this committee, I must suggest, but in the meantime as we go forward with this bill, the least we ought to do is to put some lid on what the costs will be.

They are suggesting whatever we might consume. Well, friends, what we might consume is all that we have for the rest of the year to spend. This is a bill that requires careful consideration, not just in terms of public policy but in the costs to the American taxpayer. I strongly support the Duncan amendment.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the amendment and at odds with the statements of my colleague, the gentleman from California (Mr. Lewis), the commitments made and the sequency of events and status of the National Park Service financial needs.

I note that in holding up a chart talking about whatever the construction backlog is, it is not any discussion, and/or land, whether or not any of that is authorized at all for Yosemite or for the construction of any of the buildings. Some may not have the ceilings on that he is seeking for these new parks today.

I think those ceilings ought to be put in place. But historically they have not always been. So

what you are really looking at is a wish list of a park superintendents or a general management plan that guides these parks goals.

Second of all, in terms of establishing the units, the Congress some time ago, almost over 25 years ago, set up what is called the Land Water Conservation Fund that sets aside nearly \$ 1 billion each year for States and for the Federal Government land management agencies to expend money on the purchase of lands; the intention is, as we expend resources or expend and develop the oil on the outer continental shelves of this Nation, the idea was to take, as we exploit or use a resource, to preserve a resource. The idea was to [*H5587] preserve and to buy historic sites, great natural resources in our States and across this Nation to provide that in perpetuity for the American people to conserve those areas.

The fact of the matter is that Congress and the administrations over the past decades have failed to provide or to allocate the dollars from that Land Water Conservation Fund to the point today where there is nearly \$ 10 billion in Land Water Conservation Funds that are available until expended that are supposed to be going for the parks, for the national forests, for the BLM, and for the State conservation lands. So we are not keeping that pledge.

We made that pledge in law and it is not being kept. We are taking and using that money, those dollars, for other purposes. If that were available, it would certainly eclipse any type of commitments that have been made with regards to the parks, and, yes, even for Manassas or for Bull Run, as we in Minnesota refer to it.

The fact of the matter is, Mr. Chairman, I cannot make up for the lack of credentials and ability and motivation of the Justice Department in terms of advocating or representing the Congress and the American people in the courts to enforce the laws that are enacted.

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The court made a decision on the value of Manassas land added to the park. I think the information I quoted in that debate was accurate with regard to what was paid, what the assessed valuation is, but the court decided to award and to enrich an individual who had made some investment. We were wronged. But I think that part of the error has to deal with the way the case was presented. The fact of the matter is we know in case after case during the decade of the 1980's we found the Justice Department lawyers showing up 2 days before a case was to be presented to a court, in order to prepare their case. I suggest that is not good diligence. They did not do their homework.

The result is they penalized the United States taxpayers and the Congress in terms of cost and the policy that was to be developed. I think we would look to the difference or the changes in the Justice Department with regard to these problems of representation. Mr. Chairman, the Congress has acted prudently with regard to the expansion of the Park System. It has been modest. Much of the cost is embedded in the existing units. The American public want these parks, the American public needs these parks, and they want to have them as a lasting legacy.

The parks in California that we intend to act on in these remaining weeks during the summer will be a legacy that many of us can look back on and be very proud that we expanded and developed and designated places like the Mojave Desert, places like Death Valley, like the Joshua Tree Parks. These are public lands, and the public and the youth of today and the citizens today and tomorrow have a right to have such a legacy. We should not diminish that or destroy it in the name of trying to make the case with regard to a different philosophy or a different policy with regard to these lands.

Mr. M c CANDLESS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I listened with a great deal of interest to my colleagues relative to the budgetary

process. The fact that they were talking about the substitution of Bureau of Land Management budget authority and its appropriation to offset additional costs involved in this project. I would call, again, to the attention of the subcommittee chairman and the full committee chairman that the entire area in question has a total of 42 Bureau of Land Management rangers. Now, we have talked about the size. It is my understanding that the size of this is twice, to repeat, twice the size of Rhode Island. So we are saying, well, OK, we are going to have 42 highway patrolmen for the entire State, 2 States of Rhode Island, to manage what it is we have here in the way of additional **wilderness**, special designations, closing of existing **wilderness**, special designations, closing of existing roads, pathways, whatever the designation may be. I have a lot of concern here about the fact that we are talking about the substitution of an already-how should we say it-diminished ability on the part of the existing Federal agency to manage what it has now.

Certainly the amount of money involved would not be anywhere near-would not take care of-what is going to be required in the way of additional management, given the fact that this legislation would add additional parks to the authority of the National Park Service.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. M c CANDLESS. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, just briefly, I want to thank the gentleman for his observation. I know he intended to imply that the transfer would be equal, that there would not be additional costs here and thinks that there are. I would suggest that when the committee's hearings and debates had begun on this, as I recall, there were 25 BLM personnel in the desert. So we have made some progress. All of us can agree it ought to be enhanced, the presence of BLM, not only in California but elsewhere, so that they can do a better job and meet the expectations. I thank the gentleman.

Mr. M c CANDLESS. I appreciate the gentleman's comments. It was through the Committee on Appropriations, particularly the interest of Congressman Lewis, that we were able to increase the number from 22 to 44, which is just a drop in the bucket as to what is necessary to properly manage this activity.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. M c CANDLESS. I yield to the gentleman from California.

Mr. LEWIS of California. I thank the gentleman for yielding.

Mr. Chairman, I asked the gentleman to yield, to at least respond, in part, to some of the statements made by my colleague, the gentleman from Minnesota (Bruce Vento) regarding my presentation and the shortfall in the national parks. It was suggested in his remarks that these items had not been authorized. It is my understanding that indeed they are authorized.

There is some question as to whether the authorization included language with some specific lid on the amount authorized. On about half of them, there has been a specific amount, a specific limitation; on the balance, there is not. It is left to the discretion of the needs that exist in those parks, based upon the local supervisor. But I must say the backlog is very real, and we do not find the funds to actually appropriate the money needed to carry out the promises made, often by our authorizing committees. I must say that Secretary Babbitt suggested that there would obviously be enough money available to carry out the intention of the bills that passed from the committee of the other body. One more time we get the promise without having to bite the bullet relative to the appropriations process and see where this money is going to come from.

I have with me a letter from my colleague (Mr. Vento) that addresses his response to my concern about a very specific problem in one of these parks. In one of these parks, Ranger Mike McKie is shown in this news article lowering a flag before the residency has been provided at this park. It happens to be—you see those truck crates, those metal cars often on railroad cars across the country? He has one of those metal-framed items with holes cut in it, and he is living in it in one of our parks, Death Valley National Monument. We have asked for funding to provide adequate facilities for rangers to live in, and the response from the committees is, "We have other priorities. Don't worry about those rangers who are out there." They are living like they were in a ghetto rather than in one of our national parks.

Mr. Chairman, we are long past due recognizing that the promise is one thing and to pay the bill is another. This bill before us, lots of promises are being made.

The CHAIRMAN. The time of the gentleman from California (Mr. McCandless) has expired.

(By unanimous consent, Mr. McCandless was allowed to proceed for 2 additional minutes.)
[*H5588]

Mr. LEWIS of California. Mr. Chairman, will the gentleman continue to yield?

Mr. McCANDLESS. I yield.

Mr. LEWIS of California. I thank the gentleman.

Mr. Chairman, in this bill we have many a promise but no indication as to how we ought to pay for it or adjust our priorities; it is simply language that suggests how it may be consumed by the needs of this bill. I think the gentleman's reasonable limiting amendment is long past due in this process, and I commend him for his effort.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. McCANDLESS. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I appreciate the gentleman from California (Mr. Lewis) comment with regard to housing in the parks. I would just suggest to you that we are undergoing a major reevaluation of housing in the parks because traditionally the Forest Service and BLM have not provided housing for their employees. The Park Service has fallen into a pattern of continuing to add this in irrespective of what the changes are, either demographically or geographically with regard to location and to the cost of housing. So you do not find a ready advocate in me for necessarily housing in the parks, especially if it is not necessary. I think that is one of the problems with some of the backlogs that we get.

I think Death Valley is a substantial area, it may be in a remote area, and in those areas we need to deal with housing. But the pattern here has been that we have done this in the past and we are going to continue to do it in the future, and it is exactly that type of a decision that we have to address to reprioritize what our housing policy would be with respect to our employees and for others, concessionaires in the park. I will be working with the gentleman and others to try to do a reasonable job with respect to that problem.

Mr. McCANDLESS. Reclaiming my time and responding to the subcommittee chairman, I find it difficult to accept the fact that we have traditionally not provided housing for this type of a Bureau of Land Management employee. I do not think the Bureau of Land Management employee would be living out there under these conditions unless it was something that he was

asked to do or required to do by the management of that region.

Mr. VENTO. Mr. Chairman, will the gentleman yield to me?

Mr. McCANDLESS. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I did not understand. My point was that the Park Service finds it essential that they have housing in the parks. BLM and Forest Service less often provided it.

The CHAIRMAN. The time of the gentleman from California (Mr. McCandless) has again expired.

(On request of Mr. Vento and by unanimous consent, Mr. McCandless was allowed to proceed for 2 additional minutes.)

Mr. McCANDLESS. I yield further to the gentleman.

Mr. VENTO. I thank the gentleman.

My point is there has been the proper evolution, I do not think, in terms of policy with regard to housing of park employees, or not housing them. It is a sensitive issue to me, and I think it will be to the Members here. In some cases we simply do not need that housing. There is a lot of resonance in terms of building and doing things, but it does not necessarily serve the purposes of the park.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. McCANDLESS. I yield to the gentleman from California (Mr. Lewis).

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Mr. LEWIS of California. I must say that the chairman kind of passes by neatly a pretty fundamental question. Maybe we do not need housing in these parks. Maybe in a remote area we might consider that policy question.

My colleagues, this is a remote area. We are talking about millions of acres way out in the countryside. Death Valley National Monument is huge, huge territory.

I quote Secretary Babbitt of the Department of the Interior. He says there are park rangers living with families in slums as bad as anything we would see in the third world, and that same secretary said in the committee of the other body that we will have enough money to carry forward whatever is required by this bill.

Well, my colleagues, it is time we tell these park rangers and their families, as well as the American taxpayer, how we are going to pay for it.

Mr. McCANDLESS. Mr. Chairman, I thank the gentleman. I would like to respond by saying that we are asking people who are law enforcement officers, who are responsible; the basic responsibility lies within the framework of these officers to enforce what it is that this legislature and that this legislative agreement that we are talking about is required to do and to say to them, "Well, we want you at a certain place 60 miles from the nearest grocery store, and we don't have anything out there, but we have been able to find some type of a railroad car that we bought for a price." This is just not the way we want to treat these people who have the basic responsibility for managing this bill, as it is to be implemented, into the real world.

Mr. VENTO. Mr. Chairman, will the gentleman yield just once more?

The CHAIRMAN. The time of the gentleman from California (Mr. McCandless) has expired.

(On request of Mr. Vento and by unanimous consent, Mr. McCandless was allowed to proceed for 1 additional minute.)

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. M c CANDLESS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think the question we have to ask ourselves is BLM manages this land now at 24 employees. How many housing units do they have in the California desert? I do not know that they have any. They have 242 housing units, BLM does, throughout all of the units it has in North America, in Alaska and the contiguous States. They have 242.

So, this is the point I am trying to make here. It is that we have to harbor our resources carefully today and look at what the contemporary needs are. They ought to be living in the community, and I think there is a real advantage to that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. Duncan) as modified.

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Traficant: At the end of the bill add the following:

Title VIII-Buy American Act

SEC. 801. COMPLIANCE WITH BUY AMERICAN ACT.

None of the funds made available in this Act may be expended in violation of sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act"), which are applicable to those funds.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, earlier we had a hypothetical supposition by the chairman, that in the event that the gentleman from California (Mr. Lewis) would fall out of a vegetable truck, here is what my amendment would do:

I would want that vegetable truck to be made in America, those vegetables to be grown in America, and, if the gentleman from California (Mr. Lewis) would have to go to the hospital, I would want him to go in an ambulance that is made in America, and, if he needed to be x rayed, tested on machines, I would want those machines to be made in America because the gentleman

from California (Mr. Lewis) falling out of a vegetable truck on or about the desert could be good for American workers and the American economy.

So, Mr. Chairman, I ask my colleagues to support my buy American [*H5589] amendment and pass it overwhelmingly.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, we have looked at this amendment. It is fine.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I think this is an excellent amendment, as all the amendments of the gentleman from Ohio (Mr. Traficant) usually are.

Mr. TRAFICANT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Traficant).

The amendment was agreed to.

Mr. MILLER of California. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Montgomery) having assumed the chair, Mr. Peterson of Florida, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 518) to designate certain lands in the California desert as **wilderness**, to establish the Death Valley and Joshua Tree National Parks and the Mojave National Monument, and for other purposes, had come to no resolution thereon.