

NAVAL AIR WEAPONS STATION CHINA LAKE SECURITY
ENHANCEMENT ACT

—————
JUNE 30, 2014.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
—————

Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 4458]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 4458) to make permanent the withdrawal and reservation of public land previously withdrawn and reserved to support the operations of Naval Air Weapons Station China Lake, California, and to provide for the withdrawal and reservation of additional public land, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Naval Air Weapons Station China Lake Security Enhancement Act”.

SEC. 2. WITHDRAWAL AND RESERVATION OF PUBLIC LAND FOR NAVAL AIR WEAPONS STATION CHINA LAKE, CALIFORNIA.

(a) **PERMANENT WITHDRAWAL AND RESERVATION.**—Section 2979 of the Military Construction Authorization Act for Fiscal Year 2014 (division B of Public Law 113-66; 127 Stat. 1047) is amended to read as follows:

“SEC. 2979. PERMANENT WITHDRAWAL AND RESERVATION.

“The withdrawal and reservation of public land made by section 2971 shall not terminate, except pursuant to—

“(1) an election and determination by the Secretary of the Navy to relinquish the land under section 2922; or

“(2) a transfer by the Secretary of the Interior of permanent administrative jurisdiction over the land to the Secretary of the Navy.”.

(b) WITHDRAWAL AND RESERVATION OF ADDITIONAL PUBLIC LAND.—Section 2971(b) of the Military Construction Authorization Act for Fiscal Year 2014 (division B of Public Law 113–66; 127 Stat. 1044) is amended—

(1) by striking “The public land” and inserting the following:

“(1) INITIAL WITHDRAWAL.—The public land”; and

(2) by adding at the end the following new paragraph:

“(2) ADDITIONAL WITHDRAWAL.—Subject to valid existing rights, the public land (including interests in land) referred to in subsection (a) also includes the approximately 26,313 acres of public land (including interests in land) known as the Cuddeback Lake Air Force Range, as described in section 2 of Public Law 88–46 (77 Stat. 70), and an additional approximately 18,933 acres of public land in San Bernardino County, California, identified as ‘Proposed Navy Acquisition Area’ (but excluding the parcel identified as ‘AF Fee Simple’) on the map entitled ‘Cuddeback Land Area’ and dated April 1, 2014, and filed in accordance with section 2912, except that the withdrawal area specifically excludes any public land included within the Grass Valley Wilderness and all private lands otherwise located within the boundaries of the withdrawal area. The Secretary of the Navy shall ensure that the owners of the excluded private land continue to have reasonable access to their private land.”.

(c) MANAGEMENT OF ADDITIONAL PUBLIC LAND.—Section 2973 of the Military Construction Authorization Act for Fiscal Year 2014 (division B of Public Law 113–66; 127 Stat. 1045) is amended by adding at the end the following new subsection:

“(d) ADDITIONAL MANAGEMENT CONSIDERATIONS FOR CERTAIN LANDS.—Subject to existing laws and to the extent possible without compromising mission readiness, the Secretary of the Navy shall manage the additional lands withdrawn by section 2971(b)(2) to protect existing historic, economic, cultural, recreational, hunting, and scientific features and uses, including access to existing roadways and trails.”.

PURPOSE OF THE BILL

The purpose of H.R. 4458 is to make permanent the withdrawal and reservation of public land previously withdrawn and reserved to support the operations of Naval Air Weapons Station China Lake, California, and to provide for the withdrawal and reservation of additional public land.

BACKGROUND AND NEED FOR LEGISLATION

Enacted in 1994, the California Desert Protection Act (CDPA) included the California Military Lands Withdrawal and Overflights Act of 1994. Naval Air Weapons Station (NAWS) China Lake is one of several Bureau of Land Management (BLM) areas withdrawn for military use under the CDPA and this withdrawal is scheduled to expire on October 31, 2014. Due to the Navy’s need for continued research, development, acquisition, test, and evaluation (RDAT&E) and operational training activities at NAWS China Lake, earlier in the 113th Congress, Congressman Kevin McCarthy introduced H.R. 1673 to permanently transfer the approximately 1,030,000 acres to meet those critical national security needs. However, the National Defense Authorization Act for fiscal year 2014 (Public Law 113–66) only withdrew and reserved the approximately 1,030,000 of BLM land at NAWS China Lake for a period of 25 years.

H.R. 4458 directs the Secretary of the Interior to permanently withdraw and reserve the approximately 1,056,313 acres of BLM land in Inyo, Kern and San Bernardino Counties, California, to support the operations of NAWS China Lake. In addition to the lands that are currently withdrawn and to meet expanded Navy training needs, H.R. 4458 withdraws an additional 26,313 acres

near the southwest corner of the South Range at NAWS China Lake, which includes the currently inactive Cuddeback Lake Air Force Range (approximately 7,379 acres). The Cuddeback Lake Air Force Range was used by the Air Force from the early 1960s to 1983 for test piloting, aerial gunnery, bombing and strafing. H.R. 4458 provides a logical extension of NAWS China Lake to meet expanding and evolving RDAT&E capabilities, especially anticipated RDAT&E requirements like the testing of Unmanned Aerial Vehicles and other unmanned systems.

COMMITTEE ACTION

H.R. 4458 was introduced on April 10, 2014, by Congressman Kevin McCarthy (R-CA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Public Lands and Environmental Regulation. On April 29, 2014, the Subcommittee held a hearing on the bill. On May 8, 2014, the Natural Resources Committee met to consider the bill. The Subcommittee on Public Lands and Environmental Regulation was discharged by unanimous consent. Congressman Rob Bishop (R-UT) offered an amendment designated #1 to the bill; the amendment was adopted by voice vote. No further amendments were offered, and the bill, as amended, was then adopted and ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 24 to 13, as follows:

Committee on Natural Resources
U.S. House of Representatives
113th Congress

Date: May 8, 2014

Recorded Vote #: 2

Meeting on / Amendment on: H.R. 4458- TO REPORT, Adopted and favorably reported to the House of Representatives, as amended, by a roll call vote of 24 yeas and 13 nays.

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Hastings, WA, Chairman	X			Mr. Duncan of SC	X		
<i>Mr. DeFazio, OR, Ranking</i>				<i>Mr. Cardenas, CA</i>		X	
Mr. Young, AK				Mr. Tipton, CO	X		
<i>Mr. Faleomavaega, AS</i>				<i>Mr. Huffman, CA</i>		X	
Mr. Gohmert, TX				Mr. Gosar, AZ	X		
<i>Mr. Pallone, NJ</i>		X		<i>Mr. Ruiz, CA</i>		X	
Mr. Bishop, UT	X			Mr. Labrador, ID	X		
<i>Mrs. Napolitano, CA</i>		X		<i>Ms. Shea-Porter, NH</i>		X	
Mr. Lamborn, CO	X			Mr. Southerland, FL	X		
<i>Mr. Holt, NJ</i>		X		<i>Mr. Lowenthal, CA</i>		X	
Mr. Wittman, VA	X			Mr. Flores, TX			
<i>Mr. Grijalva, AZ</i>		X		<i>Mr. Garcia, FL</i>		X	
Mr. Broun, GA	X			Mr. Runyan, NJ	X		
<i>Ms. Bordallo, GU</i>		X		<i>Mr. Cartwright, PA</i>		X	
Mr. Fleming, LA	X			Mr. Mullin, OK	X		
<i>Mr. Costa, CA</i>	X			<i>Ms. Clark, MA</i>		X	
Mr. McClintock, CA	X			Mr. Daines, MT	X		
<i>Mr. Sablan, CNMI</i>				Mr. Cramer, ND	X		
Mr. Thompson, PA	X			Mr. LaMalfa, CA	X		
<i>Ms. Tsongas, MA</i>				Mr. Smith, MO	X		
Mrs. Lummis, WY	X			Mr. McAllister, LA	X		
<i>Mr. Pierluisi, PR</i>				Mr. Byrne, AL	X		
Mr. Benishek, MI	X			<i>Vacancy</i>			
<i>Ms. Hanabusa, HI</i>							
				TOTALS	24	13	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 4458—Naval Air Weapons Station China Lake Security Enhancement Act

H.R. 4458 would make permanent the withdrawal of roughly 1 million acres of federal land that make up the National Air Weapons Station (NAWS) China Lake. The bill also would permanently withdraw an additional 26,000 acres of federal lands for military purposes.

Because, under current law, the federal lands that make up NAWS China Lake are withdrawn through fiscal year 2039 for military purposes and the other affected lands are not expected to generate receipts over the next 10 years, CBO estimates that enacting H.R. 4458 would have no significant effect on the federal budget. Enacting H.R. 4458 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 4458 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. Because, under current law, the federal lands that make up NAWS China Lake are withdrawn through fiscal year 2039 for military purposes and the other affected lands are not expected to generate receipts over the next 10 years, CBO estimates that enacting H.R. 4458 would have no significant effect on the federal budget.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to make permanent the withdrawal and reservation

of public land previously withdrawn and reserved to support the operations of Naval Air Weapons Station China Lake, California, and to provide for the withdrawal and reservation of additional public land.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman does not believe that this bill directs any executive branch official to conduct any specific rule-making proceedings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 2014

* * * * *

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

* * * * *

TITLE XXIX—WITHDRAWAL, RESERVATION, AND TRANSFER OF PUBLIC LANDS TO SUPPORT MILITARY READINESS AND SECURITY

* * * * *

SUBTITLE F—NAVAL AIR WEAPONS STATION CHINA LAKE,
CALIFORNIA

SEC. 2971. WITHDRAWAL AND RESERVATION OF PUBLIC LAND.

(a) **WITHDRAWAL.**—Subject to valid existing rights and except as otherwise provided in this subtitle, the public land (including interests in land) described in subsection (b), and all other areas within the boundary of the land depicted on the map described in that subsection that may become subject to the operation of the public land laws, is withdrawn from all forms of appropriation under the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws.

(b) **DESCRIPTION OF LAND.**—**[The public land]**

(1) *INITIAL WITHDRAWAL.*—*The public land* (including interests in land) referred to in subsection (a) is the Federal land located within the boundaries of the Naval Air Weapons Station China Lake, California, comprising approximately 1,045,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on the maps entitled “Naval Air Weapons Station China Lake Withdrawal—Renewal”, “North Range”, and “South Range”, dated March 18, 2013, and filed in accordance with section 2912.

(2) *ADDITIONAL WITHDRAWAL.*—*Subject to valid existing rights, the public land (including interests in land) referred to in subsection (a) also includes the approximately 26,313 acres of public land (including interests in land) known as the Cuddeback Lake Air Force Range, as described in section 2 of Public Law 88–46 (77 Stat. 70), and an additional approximately 18,933 acres of public land in San Bernardino County, California, identified as “Proposed Navy Acquisition Area” (but excluding the parcel identified as “AF Fee Simple”) on the map entitled “Cuddeback Land Area” and dated April 1, 2014, and filed in accordance with section 2912, except that the withdrawal area specifically excludes any public land included within the Grass Valley Wilderness and all private lands otherwise located within the boundaries of the withdrawal area. The Secretary of the Navy shall ensure that the owners of the excluded private land continue to have reasonable access to their private land.*

(c) **RESERVATION.**—The land withdrawn by subsection (a) is reserved for use by the Secretary of the Navy for the following purposes:

(1) Use as a research, development, test, and evaluation laboratory.

(2) Use as a range for air warfare weapons and weapon systems.

(3) Use as a high-hazard testing and training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support, and directed energy and unmanned aerial systems.

(4) Geothermal leasing, development, and related power production activities.

(5) Other defense-related purposes that are—

(A) consistent with the purposes described in the preceding paragraphs; and

(B) authorized under section 2914.

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SEC. 2973. ASSIGNMENT OF MANAGEMENT RESPONSIBILITY TO SECRETARY OF THE NAVY.

(a) **AUTHORITY TO ASSIGN MANAGEMENT RESPONSIBILITY.**—The Secretary of the Interior may assign the management responsibility, in whole or in part, for the land withdrawn and reserved by section 2971 to the Secretary of the Navy.

(b) **APPLICABLE LAW.**—On assignment of the management responsibility under subsection (a), the Secretary of the Navy shall manage the land in accordance with—

- (1) subtitle A and this subtitle;
- (2) title I of the Sikes Act (16 U.S.C. 670a et seq.);
- (3) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);
- (4) cooperative management arrangements entered into by the Secretary of the Interior and the Secretary of the Navy; and
- (5) any other applicable law.

(d) **ADDITIONAL MANAGEMENT CONSIDERATIONS FOR CERTAIN LANDS.**—*Subject to existing laws and to the extent possible without compromising mission readiness, the Secretary of the Navy shall manage the additional lands withdrawn by section 2971(b)(2) to protect existing historic, economic, cultural, recreational, hunting, and scientific features and uses, including access to existing roadways and trails.*

* * * * *

[SEC. 2979. DURATION OF WITHDRAWAL AND RESERVATION.

[The withdrawal and reservation of public land made by section 2971 shall terminate on March 31, 2039.]

SEC. 2979. PERMANENT WITHDRAWAL AND RESERVATION.

The withdrawal and reservation of public land made by section 2971 shall not terminate, except pursuant to—

- (1) *an election and determination by the Secretary of the Navy to relinquish the land under section 2922; or*
- (2) *a transfer by the Secretary of the Interior of permanent administrative jurisdiction over the land to the Secretary of the Navy.*

* * * * *

DISSENTING VIEWS

H.R. 4458 makes permanent the withdrawal and reservation of public land associated with Naval Air Weapons Station China Lake in Southern California. This land was already withdrawn for military use by National Defense Authorization Act for Fiscal Year 2014. The current withdrawal, which was approved last year by Congress, extended the reservation until 2039.

In addition to making permanent the withdrawal, H.R. 4458 adds 26,349 acres to China Lake, over half of which the Navy testified that it does not want to manage. Forcing the Department of Defense to manage land that it doesn't need will divert critical resources that should be used to make sure our men and women in uniform have what they need to keep our country safe, not managing grazing permits or wild horses.

Democrats support the ongoing use of public lands by our nation's military. In fact, Congress passed the Engle Act in 1958 to ensure proper oversight of the military's use of public lands. Thanks to that oversight and periodic review, approximately 16 million acres of public lands are currently withdrawn and reserved for military purposes in joint cooperation with the public land agencies and the military. This cooperation ensures that the military mission is prioritized as long as needed, but allows for discussion of the long-term protection and potential uses of the lands in the future. While used by the military, the land still belongs to the American public.

The Department of Defense has made suggestions about how to improve the way it accesses and uses public lands. These suggestions are ignored by this bill. There may be specific instances where a permanent transfer to the Defense Department makes sense, but this is not one of them.

PETER DEFAZIO,
*Ranking Member, Committee on
Natural Resources.*

RAÚL GRIJALVA,
*Ranking Member,
Subcommittee on Public Lands
and Environmental
Regulation.*

APPENDIX I: MAP

