

111TH CONGRESS
1ST SESSION

H. R. 1958

To amend the Military Construction Authorization Act, 1974 to repeal the limitation on the authorized uses of the former bombardment area on the island of Culebra and the prohibition on Federal Government responsibility for decontamination of the area.

IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 2009

Mr. PIERLUISI (for himself, Mr. SERRANO, Mr. GUTIERREZ, and Ms. VELÁZQUEZ) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend the Military Construction Authorization Act, 1974 to repeal the limitation on the authorized uses of the former bombardment area on the island of Culebra and the prohibition on Federal Government responsibility for decontamination of the area.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DECONTAMINATION AND USE OF FORMER**
4 **BOMBARDMENT AREA ON ISLAND OF**
5 **CULEBRA.**

6 (a) FINDINGS.—Congress makes the following find-
7 ings:

1 (1) Culebra Island, Puerto Rico, is located ap-
2 proximately 17 miles from the east coast of Puerto
3 Rico's main island, and the Navy conducted ship-to-
4 shore bombing exercises and other live-fire training
5 activities for over 70 years in unpopulated areas of
6 Culebra and its surrounding waters.

7 (2) In 1975, Congress required the Navy to
8 close its operations on Culebra in response to long-
9 standing concerns among the residents about safety,
10 health, and environmental risks. The Navy moved its
11 operations to nearby training facilities on Vieques
12 Island, which were closed in 2003 due to similar
13 concerns.

14 (3) Although the Navy's facilities on Culebra
15 closed in 1975, the Department of Defense did not
16 begin to address the cleanup of these areas until
17 Congress enacted specific authorities for the cleanup
18 of former United States military sites in section 211
19 of the Superfund Amendments and Reauthorization
20 Act of 1986 (Public Law 99-499). With these au-
21 thorities, the Army Corps of Engineers added
22 Culebra to the Formerly Used Defense Sites Pro-
23 gram in 1991, and for several years thereafter, per-
24 formed relatively limited cleanup of unexploded ord-
25 nance from the surface.

1 (4) In 2003, the Governor of Puerto Rico, Sila
2 M. Calderón, requested that the Environmental Pro-
3 tection Agency add both Culebra and Vieques to the
4 National Priorities List of the most hazardous sites.
5 In 2005, the Environmental Protection Agency
6 added Vieques to the National Priorities List, but
7 delayed its listing decision for Culebra. Instead,
8 Puerto Rico and the Army Corps of Engineers de-
9 cided to address the cleanup of Culebra under a sep-
10 arate agreement, under which the Army Corps of
11 Engineers has begun to plan a more comprehensive
12 removal of unexploded ordnance on Culebra.

13 (5) The Army Corps of Engineers had spent
14 \$11,100,000 as of the end of fiscal year 2007 on the
15 cleanup of Culebra and estimated that another
16 \$92,600,000 would be needed to complete planned
17 cleanup actions. These amounts pale in comparison
18 to the \$77,600,000 the Navy has already spent, and
19 the \$253,100,000 the Navy plans to spend in the fu-
20 ture, to complete the cleanup of Vieques.

21 (6) The more limited scope of the cleanup on
22 Culebra has become a rising issue. The greater fund-
23 ing for Vieques is not based on differing conditions
24 on the islands. Both were used for the same types

1 of training exercises for several decades and are like-
2 ly to contain similar hazards.

3 (7) Instead, the discrepancy is primarily attrib-
4 utable to the fact that certain of the most potentially
5 hazardous areas on Culebra, including the North-
6 west Peninsula and Flamenco Beach, have been ex-
7 cluded from Federal cleanup plans because the
8 Corps of Engineers maintains that a 1974 Federal
9 law prohibits the Army Corps of Engineers from
10 conducting cleanup in those areas.

11 (8) Section 204(c) of the Military Construction
12 Authorization Act, 1974 (Public Law 93-166; 87
13 Stat. 668) prohibited land uses in the “present” (at
14 the time of enactment) bombardment zone on
15 Culebra that would require cleanup at the expense of
16 the Federal Government.

17 (9) Puerto Rico asserts that specific authorities
18 for the cleanup of former United States military
19 sites enacted later by Congress in Public Law 99-
20 499 superseded this prohibition. Despite these later
21 authorities, the Army Corps of Engineers maintains
22 that the prohibition still stands to exclude certain
23 areas of Culebra from Federal cleanup funds that
24 otherwise are available to all other former United

1 States military sites in the 50 States and United
2 States territories.

3 (10) Based on its interpretation, the Army
4 Corps of Engineers has not included the Northwest
5 Peninsula and Flamenco Beach in the scope of its
6 cleanup plan for Culebra. Because the Northwest
7 Peninsula and Flamenco Beach likely contain the
8 greatest amounts of unexploded ordnance on
9 Culebra, public concern has grown about the exclu-
10 sion of these areas from the cleanup effort.

11 (11) Section 2872 of H.R. 5658 of the 110th
12 Congress, as passed by the House of Representa-
13 tives, would have repealed the prohibition in the
14 1974 statute, allowing the Army Corps of Engineers
15 to expend funds to address potential human health,
16 safety, and environmental risks in the Northwest Pe-
17 ninsula and Flamenco Beach.

18 (b) REPEAL.—Section 204 of the Military Construc-
19 tion Authorization Act, 1974 (Public Law 93–166; 87
20 Stat. 668) is amended by striking subsection (c).

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