

### § 4301. Findings, purposes, and policy

#### (a) Findings

The Congress finds and declares that—

- (1) significant caves on Federal lands are an invaluable and irreplaceable part of the Nation's natural heritage; and
- (2) in some instances, these significant caves are threatened due to improper use, increased recreational demand, urban spread, and a lack of specific statutory protection.

#### (b) Purposes

The purposes of this chapter are—

- (1) to secure, protect, and preserve significant caves on Federal lands for the perpetual use, enjoyment, and benefit of all people; and
- (2) to foster increased cooperation and exchange of information between governmental authorities and those who utilize caves located on Federal lands for scientific, education, or recreational purposes.

#### (c) Policy

It is the policy of the United States that Federal lands be managed in a manner which protects and maintains, to the extent practical, significant caves.

(Pub. L. 100-691, § 2, Nov. 18, 1988, 102 Stat. 4546.)

#### SHORT TITLE

Section 1 of Pub. L. 100-691 provided that: "This Act [enacting this chapter] may be referred to as the 'Federal Cave Resources Protection Act of 1988'."

#### LECHUGUILLA CAVE PROTECTION

Pub. L. 103-169, Dec. 2, 1993, 107 Stat. 1983, provided that:

##### "SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Lechuguilla Cave Protection Act of 1993'.

##### "SEC. 2. FINDING.

"Congress finds that Lechuguilla Cave and adjacent public lands have internationally significant scientific, environmental, and other values, and should be retained in public ownership and protected against adverse effects of mineral exploration and development and other activities presenting threats to the areas.

##### "SEC. 3. LAND WITHDRAWAL.

"(a) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the boundaries of the cave protection area described in subsection (b) are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and all amendments thereto.

"(b) LAND DESCRIPTION.—The cave protection area referred to in subsection (a) shall consist of approximately 6,280 acres of lands in New Mexico as generally depicted on the map entitled 'Lechuguilla Cave Protection Area' numbered 130/80,055 and dated April 1993.

"(c) PUBLICATION, FILING, CORRECTION, AND INSPECTION.—(1) As soon as practicable after the date of enactment of this Act [Dec. 2, 1993], the Secretary of the Interior (hereinafter referred to as the 'Secretary') shall publish in the Federal Register the legal description of the lands withdrawn under subsection (a) and shall file such legal description and a detailed map with 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.

"(2) Such map and legal description shall have the same force and effect as if included in this Act except that the Secretary may correct clerical and typographical errors.

"(3) Copies of such map and legal description shall be available for inspection in the appropriate offices of the Bureau of Land Management.

##### "SEC. 4. MANAGEMENT OF EXISTING LEASES.

"(a) SUSPENSION.—The Secretary shall not permit any new drilling on or involving any Federal mineral or geothermal lease within the cave protection area referred to in section 3(a) until the effective date of the Record of Decision for the Dark Canyon Environmental Impact Statement, or for 12 months after the date of enactment of this Act [Dec. 2, 1993], whichever occurs first.

"(b) AUTHORITY TO CANCEL EXISTING MINERAL OR GEOTHERMAL LEASES.—Upon the effective date of the Record of Decision for the Dark Canyon Environmental Impact Statement and in order to protect Lechuguilla Cave or other cave resources, the Secretary is authorized to—

"(1) cancel any Federal mineral or geothermal lease in the cave protection area referred to in section 3(a); or

"(2) enter into negotiations with the holder of a Federal mineral or geothermal lease in the cave protection area referred to in section 3(a) to determine appropriate compensation, if any, for the complete or partial termination of such lease.

##### "SEC. 5. ADDITIONAL PROTECTION AND RELATION TO OTHER LAWS.

"(a) IN GENERAL.—In order to protect Lechuguilla Cave or Federal lands within the cave protection area, the Secretary, subject to valid existing rights, may limit or prohibit access to or across lands owned by the United States or prohibit the removal from such lands of any mineral, geological, or cave resources: *Provided*, That existing access to private lands within the cave protection area shall not be affected by this subsection.

"(b) NO EFFECT ON PIPELINES.—Nothing in this title [Act] shall have the effect of terminating any validly issued right-of-way, or customary operation, maintenance, repair, and replacement activities in such right-of-way; prohibiting the upgrading of and construction on existing facilities in such right-of-way for the purpose of increasing capacity of the existing pipeline; or prohibiting the renewal of such right-of-way within the cave protection area referred to in section 3(a).

"(c) RELATION TO OTHER LAWS.—Nothing in this Act shall be construed as increasing or diminishing the ability of any party to seek compensation pursuant to other applicable law, including but not limited to the Tucker Act (28 U.S.C. 1491), or as precluding any defenses or claims otherwise available to the United States in connection with any action seeking such compensation from the United States.

##### "SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

"There is hereby authorized to be appropriated such sums as may be necessary to carry out this Act: *Provided*, That no funds shall be made available except to the extent, or in such amounts as are provided in advance in appropriation Acts."

### § 4302. Definitions

For purposes of this chapter:

#### (1) Cave

The term "cave" means any naturally occurring void, cavity, recess, or system of interconnected passages which occurs beneath the surface of the earth or within a cliff or ledge (including any cave resource therein, but not including any vug, mine, tunnel, aqueduct, or other manmade excavation) and which is large enough to permit an individual to enter,

whether or not the entrance is naturally formed or manmade. Such term shall include any natural pit, sinkhole, or other feature which is an extension of the entrance.

**(2) Federal lands**

The term “Federal lands” means lands the fee title to which is owned by the United States and administered by the Secretary of Agriculture or the Secretary of the Interior.

**(3) Indian lands**

The term “Indian lands” means lands of Indian tribes or Indian individuals which are either held in trust by the United States for the benefit of an Indian tribe or subject to a restriction against alienation imposed by the United States.

**(4) Indian tribe**

The term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims settlement<sup>1</sup> Act (43 U.S.C. 1601 et seq.).

**(5) Cave resource**

The term “cave resource” includes any material or substance occurring naturally in caves on Federal lands, such as animal life, plant life, paleontological deposits, sediments, minerals, speleogens, and speleothems.

**(6) Secretary**

The term “Secretary” means the Secretary of Agriculture or the Secretary of the Interior, as appropriate.

**(7) Speleothem**

The term “speleothem” means any natural mineral formation or deposit occurring in a cave or lava tube, including but not limited to any stalactite, stalagmite, helictite, cave flower, flowstone, concretion, drapery, rimstone, or formation of clay or mud.

**(8) Speleogen**

The term “speleogen” means relief features on the walls, ceiling, and floor of any cave or lava tube which are part of the surrounding bedrock, including but not limited to anastomoses, scallops, meander niches, petromorphs and rock pendants in solution caves and similar features unique to volcanic caves.

(Pub. L. 100-691, § 3, Nov. 18, 1988, 102 Stat. 4546.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (4), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

**§ 4303. Management actions**

**(a) Regulations**

Not later than nine months after November 18, 1988, the Secretary shall issue such regulations as he deems necessary to achieve the purposes of

<sup>1</sup> So in original. Probably should be capitalized.

this chapter. Regulations shall include, but not be limited to, criteria for the identification of significant caves. The Secretaries shall cooperate and consult with one another in preparation of the regulations. To the extent practical, regulations promulgated by the respective Secretaries should be similar.

**(b) In general**

The Secretary shall take such actions as may be necessary to further the purposes of this chapter. Those actions shall include (but need not be limited to)—

(1) identification of significant caves on Federal lands:

(A) The Secretary shall prepare an initial list of significant caves for lands under his jurisdiction not later than one year after the publication of final regulations using the significance criteria defined in such regulations. Such a list shall be developed after consultation with appropriate private sector interests, including cavers.

(B) The initial list of significant caves shall be updated periodically, after consultation with appropriate private sector interests, including cavers. The Secretary shall prescribe by policy or regulation the requirements and process by which the initial list will be updated, including management measures to assure that caves under consideration for the list are protected during the period of consideration. Each cave recommended to the Secretary by interested groups for possible inclusion on the list of significant caves shall be considered by the Secretary according to the requirements prescribed pursuant to this paragraph, and shall be added to the list if the Secretary determines that the cave meets the criteria for significance as defined by the regulations.

(2) regulation or restriction of use of significant caves, as appropriate;

(3) entering into volunteer management agreements with persons of the scientific and recreational caving community; and

(4) appointment of appropriate advisory committees.

**(c) Planning and public participation**

The Secretary shall—

(1) ensure that significant caves are considered in the preparation or implementation of any land management plan if the preparation or revision of the plan began after November 18, 1988; and

(2) foster communication, cooperation, and exchange of information between land managers, those who utilize caves, and the public.

(Pub. L. 100-691, § 4, Nov. 18, 1988, 102 Stat. 4547.)

**§ 4304. Confidentiality of information concerning nature and location of significant caves**

**(a) In general**

Information concerning the specific location of any significant cave may not be made available to the public under section 552 of title 5 unless the Secretary determines that disclosure of such information would further the purposes of this chapter and would not create a substantial risk of harm, theft, or destruction of such cave.