

114TH CONGRESS
1ST SESSION

H. R. 4268

To designate the Castner Range in the State of Texas, to establish the
Castner Range National Monument, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2015

Mr. O'ROURKE introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To designate the Castner Range in the State of Texas,
to establish the Castner Range National Monument, and
for other purposes.

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. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Castner Range National Monument Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

- Sec. 3. Establishment of Castner Range National Monument, Texas.
Sec. 4. Access and buffer zones.
Sec. 5. Management of Federal lands within the National Monument.
Sec. 6. Water.
Sec. 7. Border security.
Sec. 8. Department of Army responsibility and authority.
Sec. 9. Castner Range National Monument Advisory Council.
Sec. 10. Land conveyance, Castner Range, Fort Bliss, Texas.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **ADVISORY COUNCIL.**—The term “advisory
4 council” means the Castner Range National Monu-
5 ment Advisory Council.

6 (2) **MOTOR VEHICLE USE MAPS.**—The term
7 “motor vehicle use maps” means the maps produced
8 by the Department of Defense and the City of El
9 Paso regarding authorized motor vehicle use within
10 Castner Range.

11 (3) **NATIONAL MONUMENT.**—The term “Na-
12 tional Monument” means the Castner Range Na-
13 tional Monument.

14 (4) **SECRETARY.**—The term “Secretary” means
15 the Secretary of the Interior.

16 (5) **STATE.**—The term “State” means the State
17 of Texas.

1 **SEC. 3. ESTABLISHMENT OF CASTNER RANGE NATIONAL**
2 **MONUMENT, TEXAS.**

3 (a) ESTABLISHMENT.—Subject to valid existing
4 rights, there is hereby established the Castner Range Na-
5 tional Monument in the State.

6 (b) AREA INCLUDED.—The National Monument con-
7 sists of Federal land and interests in Federal land within
8 El Paso County, Texas, as depicted on the map entitled
9 “Castner Range National Monument”.

10 (c) EXCLUSION OF NON-FEDERAL LAND.—The Na-
11 tional Monument includes only Federal land and interests
12 in Federal land and does not include or apply to private
13 property or other non-Federal land and interests in land
14 within the exterior boundaries of the National Monument.

15 (d) PURPOSE.—The purpose of the National Monu-
16 ment is to conserve, protect, and enhance for the benefit
17 and enjoyment of present and future generations the eco-
18 logical, scenic, wildlife, recreational, cultural, historical,
19 natural, educational, and scientific resources of the lands
20 included in the National Monument, including Castner
21 Range and its—

22 (1) relationship to the Department of the Army;

23 (2) role as a water conservation sanctuary
24 through a dozen natural canyons, arroyos (“gullies,
25 washes”) and alluvial fans which efficiently trans-
26 port run-off from the heights through seepage into

1 the large underground Hueco Bolsón (“aquifer”,
2 which along with the West Side Mesilla Bolsón sup-
3 plies much of El Paso’s water);

4 (3) historical significance, as it contains numer-
5 ous archaeological and historical resources that date
6 as far back as the Paleo-Indian, Archaic and historic
7 Indian groups, lasted from about 8000 B.C. to 4000
8 B.C. and was initially characterized by big-game
9 hunting;

10 (4) significance as a habitat for an extremely
11 diverse aggregation of wildlife and plant species of
12 special concern that are thought to inhabit Castner
13 Range, including the sand prickly pear, the Texas
14 lyre snake, and the western burrowing owl; and

15 (5) significance as a one-of-a-kind vegetation
16 region that includes a mountainous area, cactus
17 lechuguilla region, and draw-yucca grassland region.

18 **SEC. 4. ACCESS AND BUFFER ZONES.**

19 (a) ACCESS.—The Secretary shall continue to provide
20 historical and adequate access to private inholdings within
21 the exterior boundaries of the National Monument.

22 (b) BUFFER ZONES.—Nothing in this Act creates a
23 protective perimeter or buffer zone around the National
24 Monument. The fact that any activities or uses outside
25 of areas designated by this Act can be seen or heard within

1 the National Monument shall not preclude the activities
2 or uses outside of the National Monument.

3 (c) USE OF EASEMENTS.—Nothing in this Act shall
4 affect currently used easements located within the national
5 monument, including the use of Trans Mountain Highway,
6 the National Border Patrol Museum, El Paso Museum of
7 Archaeology, a letter of intent by the Texas Parks and
8 Wildlife Department to build a visitors site for the Frank-
9 lin Mountains State Park.

10 **SEC. 5. MANAGEMENT OF FEDERAL LANDS WITHIN THE NA-**
11 **TIONAL MONUMENT.**

12 (a) BASIS OF MANAGEMENT.—

13 (1) APPLICABLE LAWS.—The Secretary shall
14 manage the National Monument in a manner that
15 conserves, protects, and enhances the natural re-
16 sources and values of the National Monument, in ac-
17 cordance with—

18 (A) this Act;

19 (B) the Federal Land Policy and Manage-
20 ment Act of 1976 (43 U.S.C. 1701 et seq.); and

21 (C) the Act of June 17, 1902 (commonly
22 known as the Reclamation Act of 1902; 32
23 Stat. 388), and Acts amendatory thereof and
24 supplemental thereto.

1 (2) RESOLUTION OF CONFLICTS.—If there is a
2 conflict between a provision of this Act and a provi-
3 sion of one of the other laws specified in paragraph
4 (1), the more restrictive provision shall control.

5 (b) TRIBAL CULTURAL USES.—Nothing in this Act
6 shall be construed to enlarge or diminish the rights of any
7 Indian tribe.

8 (c) MANAGEMENT PLAN.—

9 (1) IN GENERAL.—The Secretary shall develop
10 a comprehensive plan for the protection and man-
11 agement of the National Monument that fulfills the
12 purposes specified in section 3(b). In implementing
13 the management plan and in considering any rec-
14 ommendations from the advisory council, the Sec-
15 retary shall consult with the advisory council on a
16 regular basis.

17 (2) PURPOSES.—The management plan shall—

18 (A) describe the appropriate uses and
19 management of the National Monument;

20 (B) identify short-term and long-term
21 management actions and prioritize management
22 actions based on projected availability of re-
23 sources;

24 (C) include a habitat restoration opportu-
25 nities component;

1 (D) include a recreational opportunity en-
2 hancement component; and

3 (E) include a component that addresses
4 the Secretary of Army's remediation of haz-
5 ardous substances or munitions and explosives
6 of concern within the National Monument.

7 (3) PUBLIC PARTICIPATION AND SPECIAL CON-
8 siderations.—In developing the management plan,
9 and to the extent consistent with this section, the
10 Secretary—

11 (A) shall solicit extensive public input;

12 (B) shall take into consideration any infor-
13 mation developed in studies of the land within
14 the National Monument;

15 (C) shall assess available climate change
16 information pertinent to the National Monu-
17 ment;

18 (D) shall include standards and practices
19 to ensure the preservation of wildlife corridors
20 and facilitate species migration; and

21 (E) may incorporate any provision from a
22 resource management plan, land and resource
23 management plan, or any other plan applicable
24 to the National Monument.

1 (d) COOPERATIVE AGREEMENTS.—In carrying out
2 this Act, the Secretary may make grants to, or enter into
3 cooperative agreements with, State, tribal, and local gov-
4 ernmental entities and private entities to conduct re-
5 search, develop scientific analyses, and carry out any other
6 initiative relating to the restoration or conservation of the
7 National Monument.

8 (e) MOTORIZED AND MECHANIZED VEHICLES.—Ex-
9 cept where needed for administrative purposes or to re-
10 spond to an emergency, the use of motorized and mecha-
11 nized vehicles on lands within the National Monument
12 shall be permitted only on roads and trails designated for
13 their use.

14 (f) ACQUISITION AND INCORPORATION OF LANDS
15 AND INTERESTS.—

16 (1) AUTHORITY.—The Secretary may acquire
17 non-Federal land within the exterior boundaries of
18 the National Monument only through exchange, do-
19 nation, or purchase from a willing seller.

20 (2) MANAGEMENT.—Any land or interest in
21 land that is located within the National Monument
22 that is acquired by the United States shall—

23 (A) become part of the National Monu-
24 ment; and

1 (B) be managed in accordance with this
2 Act.

3 (g) WITHDRAWAL.—Subject to valid existing rights,
4 all Federal land within the National Monument is with-
5 drawn from—

6 (1) entry, appropriation, or disposal under the
7 public land laws;

8 (2) location, entry, and patent under the mining
9 laws; and

10 (3) leasing or disposition under all laws relating
11 to operation of the mineral leasing, mineral mate-
12 rials, and geothermal leasing laws.

13 (h) LIMITED CONVEYANCE AUTHORITY.—The Sec-
14 retary may authorize the conveyance of Federal land with-
15 in the National Monument if—

16 (1) the purpose for which the land is to be con-
17 veyed is consistent with the purposes specified in
18 section 3(b);

19 (2) the conveyance would benefit the National
20 Monument and is in the public interest, as deter-
21 mined by the Secretary; and

22 (3) the conveyance is made in accordance with
23 applicable laws (including regulations).

24 (i) WILDLAND FIRE OPERATIONS.—Nothing in this
25 section prohibits the Secretary, in cooperation with other

1 Federal, State, and local agencies, as appropriate, from
2 conducting wildland fire operations in the National Monu-
3 ment consistent with the purposes specified in section
4 3(b).

5 **SEC. 6. WATER.**

6 Nothing in this Act—

7 (1) affects the use or allocation, in existence on
8 the date of enactment of this Act, of any water,
9 water right, or interest in water;

10 (2) affects any vested absolute or decreed condi-
11 tional water right in existence on the date of enact-
12 ment of this Act, including any water right held by
13 the United States;

14 (3) affects any interstate water compact in ex-
15 istence on the date of the enactment of this Act;

16 (4) authorizes or imposes any new reserved
17 Federal water rights; or

18 (5) relinquishes or reduces any water rights re-
19 served or appropriated by the United States in the
20 State on or before the date of the enactment of this
21 Act.

22 **SEC. 7. BORDER SECURITY.**

23 (a) IN GENERAL.—Nothing in this Act—

24 (1) prevents the Secretary of Homeland Secu-
25 rity from conducting—

1 (A) undertaking law enforcement and bor-
2 der security activities, in accordance with sec-
3 tion 4(c) of the Wilderness Act (16 U.S.C.
4 1133(c)), including the ability to use motorized
5 access within an area while in pursuit of a sus-
6 pect; or

7 (B) any low-level flights over the area that
8 may be necessary for law enforcement and bor-
9 der security purposes; or

10 (2) affects the 2006 Memorandum of Under-
11 standing among the Department of Homeland Secu-
12 rity, the Department of the Interior, and the De-
13 partment of Agriculture regarding cooperative na-
14 tional security and counterterrorism efforts on Fed-
15 eral lands along the borders of the United States.

16 (b) WITHDRAWAL AND ADMINISTRATION OF CER-
17 TAIN AREA.—Nothing in this section precludes the Sec-
18 retary from allowing within the area described in sub-
19 section (a)(1)(A) the installation and maintenance of com-
20 munication or surveillance infrastructure necessary for law
21 enforcement or border security activities.

22 **SEC. 8. DEPARTMENT OF ARMY RESPONSIBILITY AND AU-**
23 **THORITY.**

24 (a) RESPONSIBILITY.—Nothing in this Act shall af-
25 fect—

1 (1) the responsibility of the Department of the
2 Army under applicable environmental laws, including
3 the remediation of hazardous substances or muni-
4 tions and explosives of concern within the National
5 Monument boundaries;

6 (2) the statutory authority of the Department
7 of the Army to control public access or statutory re-
8 sponsibility to make other measures for environ-
9 mental remediation, monitoring, security, safety, or
10 emergency preparedness purposes;

11 (3) the activities of the Department of the
12 Army on lands not included within the National
13 Monument; or

14 (4) the responsibility of the Department of the
15 Army, in consultation with the Secretary of the Inte-
16 rior (acting through the Bureau of Land Manage-
17 ment), to continue to manage the lands and inter-
18 ests in lands under the Secretary's jurisdiction with-
19 in the National Monument boundaries until the
20 Army transfers administrative jurisdiction of those
21 lands and interests in lands to the Bureau of Land
22 Management.

23 (b) AUTHORITY.—The Secretary of the Army and the
24 Secretary of the Interior may enter into a memorandum
25 of understanding whereby the Secretary of the Army—

1 (1) may relinquish administrative jurisdiction
2 over the Castner Range, Fort Bliss, Texas, to the
3 Secretary of the Interior; and

4 (2) may not relinquish or diminish the responsi-
5 bility of the Secretary of the Army of responsibilities
6 referred to in subsection (a).

7 **SEC. 9. CASTNER RANGE NATIONAL MONUMENT ADVISORY**
8 **COUNCIL.**

9 (a) ESTABLISHMENT.—Not less than 180 days after
10 the date of enactment of this Act, the Secretary shall es-
11 tablish an advisory council, to be known as the “Castner
12 Range National Monument Advisory Council”.

13 (b) DUTIES.—The advisory council shall advise the
14 Secretary with respect to the preparation and implementa-
15 tion of the management plan for the National Monument.

16 (c) APPLICABLE LAW.—The advisory council shall be
17 subject to—

18 (1) the Federal Advisory Committee Act (5
19 U.S.C. App.);

20 (2) the Federal Land Policy and Management
21 Act of 1976 (43 U.S.C. 1701 et seq.); and

22 (3) all other applicable law.

23 (d) MEMBERS.—The advisory council shall include 11
24 members, to be appointed by the Secretary, of whom, to
25 the extent practicable—

1 (1) one member shall be appointed after consid-
2 ering the recommendations of the El Paso County
3 Commissioners Court;

4 (2) one member shall be appointed after consid-
5 ering the recommendations of the head of the Texas
6 Parks and Wildlife Department;

7 (3) one member shall be appointed to represent
8 Native American Tribes;

9 (4) one member shall be appointed to represent
10 Fort Bliss; and

11 (5) seven members shall reside in, or within
12 reasonable proximity to, the county specified in
13 paragraphs (1) through (4) with backgrounds that
14 reflect—

15 (A) the purposes specified in section 3(b);
16 and

17 (B) the interest of persons affected by the
18 planning and management of the National
19 Monument, including persons representing the
20 agricultural, private land-ownership, environ-
21 mental, recreational, tourism, or other non-Fed-
22 eral land interests.

23 (e) REPRESENTATION.—The Secretary shall ensure
24 that the membership of the advisory council is fairly bal-

1 anced in terms of the points of view represented and the
2 functions to be performed by the advisory council.

3 (f) TERMS.—

4 (1) STAGGERED TERMS.—Members of the advi-
5 sory council shall be appointed for terms of 3 years,
6 except that, of the members first appointed, 5 of the
7 members shall be appointed for a term of one year
8 and 5 of the members shall be appointed for a term
9 of 2 years.

10 (2) REAPPOINTMENT.—A member may be re-
11 appointed to serve on the advisory council upon the
12 expiration of the member's current term.

13 (3) VACANCY.—A vacancy on the advisory
14 council shall be filled in the same manner as the
15 original appointment.

16 (g) QUORUM.—A quorum shall be 7 members of the
17 advisory council. The operations of the advisory council
18 shall not be impaired by the fact that a member has not
19 yet been appointed as long as a quorum has been attained.

20 (h) CHAIRPERSON AND PROCEDURES.—The advisory
21 council shall elect a chairperson and establish such rules
22 and procedures as it deems necessary or desirable.

23 (i) SERVICE WITHOUT COMPENSATION.—Members of
24 the advisory council shall serve without pay.

1 (j) TERMINATION.—The advisory committee shall
2 cease to exist—

3 (1) on the date that is 5 years after the date
4 on which the management plan is officially adopted
5 by the Secretary; or

6 (2) on such later date as the Secretary con-
7 siders appropriate.

8 **SEC. 10. LAND CONVEYANCE, CASTNER RANGE, FORT**
9 **BLISS, TEXAS.**

10 Section 2844 of the National Defense Authorization
11 Act for Fiscal Year 2013 is repealed.

○