



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON, D.C. 20350-1000

February 25, 2000

The Honorable J. Dennis Hastert
Speaker of the House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Enclosed is proposed legislation that would authorize the conveyance of the western quarter of the island of Vieques, in the Commonwealth of Puerto Rico to local ownership. This proposal is in implementation of the President's Directive dated January 31, 2000, entitled "Resolution Regarding Use of Range Facilities on Vieques, Puerto Rico."

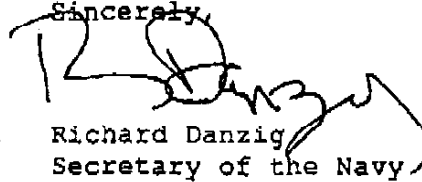
The legislation would require the Department of the Navy, by December 31, 2000, to transfer to the Government of Puerto Rico the land on the western end of the island now constituting the Naval Ammunition Support Detachment. One hundred acres would be retained by the Navy for the operation of the Relocatable Over the Horizon Radar (ROTHR) and Mount Pirata telecommunications sites. The requirements of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 will be met.

The legislation also includes provisions that would identify management mechanisms and funding authorizations necessary for the management of the conservation zones and surrounding environmentally sensitive areas on the lands to be conveyed that would be consistent with the co-management agreement of the Commonwealth of Puerto Rico, the Puerto Rico Conservation Trust, and the Department of the Interior.

There has been relatively little use of this property in recent years and it is no longer needed for Federal purposes. The Governments of Vieques and Puerto Rico as a whole have requested this transfer and the Governor, Legislative Assembly, and Resident Commissioner of Puerto Rico and the Mayor of Vieques have supported the President's directive in this regard.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of Congress, and that its enactment is in accord with the program of the President. Prompt and favorable consideration of this proposal would be appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Danzig", written over the typed name and title.

Richard Danzig
Secretary of the Navy

Enclosure:
As stated



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON, D.C. 20350-1000

February 25, 2000

The Honorable Albert Gore, Jr.
President of the Senate
Washington, DC 20510

Dear Mr. President:

Enclosed is proposed legislation that would authorize the conveyance of the western quarter of the island of Vieques, in the Commonwealth of Puerto Rico to local ownership. This proposal is in implementation of the President's Directive dated January 31, 2000, entitled "Resolution Regarding Use of Range Facilities on Vieques, Puerto Rico."

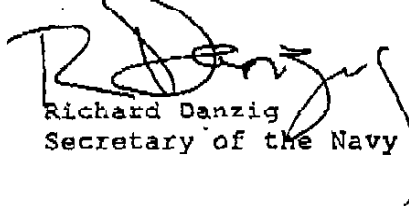
The legislation would require the Department of the Navy, by December 31, 2000, to transfer to the Government of Puerto Rico the land on the western end of the island now constituting the Naval Ammunition Support Detachment. One hundred acres would be retained by the Navy for the operation of the Relocatable Over the Horizon Radar (ROTHR) and Mount Pirata telecommunications sites. The requirements of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 will be met.

The legislation also includes provisions that would identify management mechanisms and funding authorizations necessary for the management of the conservation zones and surrounding environmentally sensitive areas on the lands to be conveyed that would be consistent with the co-management agreement of the Commonwealth of Puerto Rico, the Puerto Rico Conservation Trust, and the Department of the Interior.

There has been relatively little use of this property in recent years and it is no longer needed for Federal purposes. The Governments of Vieques and Puerto Rico as a whole have requested this transfer and the Governor, Legislative Assembly, and Resident Commissioner of Puerto Rico and the Mayor of Vieques have supported the President's directive in this regard.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of Congress, and that its enactment is in accord with the program of the President. Prompt and favorable consideration of this proposal would be appreciated.

Sincerely,



Richard Danzig
Secretary of the Navy

Enclosure:
As stated

SEC. ____ . LAND CONVEYANCE ON THE ISLAND OF VIEQUES, PUERTO RICO.

1 (a) CONVEYANCE OF NAVAL AMMUNITION SUPPORT DETACHMENT.—Not later than
2 December 31, 2000, the Secretary of the Navy shall convey, without consideration, to the
3 Government of Puerto Rico, for the benefit of the Municipality of Vieques, as determined by the
4 Planning Board of the Government of Puerto Rico, all right, title, and interest of the United
5 States in and to the land constituting the Naval Ammunition Support detachment, located on the
6 western end of the Island of Vieques in the Commonwealth of Puerto Rico, except for the right,
7 title and interest in that portion of the property described in subsection (b).

8 (b) RESERVED PROPERTY NOT SUBJECT TO CONVEYANCE.—The conveyance required by
9 subsection (a) shall not include that portion of such property on the western end of the Island of
10 Vieques of approximately 100 acres on which is located the Relocatable Over The Horizon
11 Radar (ROTHR) and the Mt. Pirata telecommunications facilities. Further, the Secretary of the
12 Navy shall retain such easements, rights of way, and other interests in the property conveyed
13 pursuant to subsection (a) as are necessary—

14 (1) to provide access to the retained property;

15 (2) for the provision of utilities and security for the retained property; and

16 (3) for the effective maintenance and operation of the retained property.

17 The United States also shall retain such interests in the property conveyed as determined in the
18 discharge of responsibilities under subsections (d), as are necessary to protect human health and
19 the environment, and (f), as provided in the co-management agreement.

20 (c) DESCRIPTION OF PROPERTY.—The Secretary of the Navy, in consultation with the
21 Secretary of the Interior on issues relating to natural resource protection under subsection (f),
22 shall determine the exact acreage and legal description of the property required to be conveyed

1 pursuant to subsection (a), including the legal description of any easements, rights of way, and
2 other interests that are retained pursuant to subsection (b).

3 (d) ENVIRONMENTAL CLEANUP.—(1) An important objective of the conveyance required
4 by this section is to promote timely redevelopment of the property in a manner that enhances
5 employment opportunities and economic redevelopment for the benefit of the residents of
6 Vieques. Accordingly, in the transfer of the property described in this section, the Secretary of
7 the Navy, pursuant to the Comprehensive Environmental Response, Compensation and Liability
8 Act of 1980 (CERCLA), section 2701 of title 10, United States Code, and such other authorities
9 as he shall deem necessary, shall examine the environmental condition of the property required to
10 be conveyed under this section to determine whether any response is necessary in order to protect
11 human health and the environment. If the Secretary of the Navy, in consultation with the
12 Administrator of the Environmental Protection Agency and the Governor of Puerto Rico,
13 determines that a response is necessary, the Secretary shall carry out such response as is
14 necessary to protect human health and the environment.

15 (2) If the Secretary of the Navy, by December 31, 2000, is unable to provide the covenant
16 required by section 120(h)(3)(A)(ii)(I) of the Comprehensive Environmental Response,
17 Compensation and Liability Act of 1980 (42 U.S.C. 9620(h)(3)(A)(ii)(I)), the Secretary
18 nonetheless shall convey the property described in subsection (a), and shall be responsible for
19 completing all response actions required under CERCLA based upon reasonably expected uses
20 for the property, including reuse recommendations provided by the Governor of Puerto Rico.

21 (3) Any response action for property conveyed under this section shall be conducted in
22 compliance with subsections (d)(1) and (d)(2) and CERCLA. The Department of the Navy shall
23 remain responsible for the environmental condition of the property and the Commonwealth of

1 Puerto Rico shall not be responsible for any condition existing at the time of transfer. The
2 completion of the response actions shall not be delayed by such conveyance.

3 (e) INDEMNIFICATION OF PUERTO RICO.—(1) IN GENERAL.—(A) Except as provided in
4 subparagraph (C), and subject to paragraph (2), the Secretary of Defense shall hold harmless,
5 defend, and indemnify in full the persons and entities described in subparagraph (B) from and
6 against any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any
7 claim for personal injury or property damage (including death, illness, or loss of or damage to
8 property or economic loss) that results from, or is in any manner predicated upon, the release or
9 threatened release of any hazardous substance or pollutant or contaminant as a result of
10 Department of Defense activities at those parts of the Naval Ammunition Support detachment
11 conveyed pursuant to subsection (a).

12 (B) The persons and entities described in this paragraph are the following:

13 (i) The Commonwealth of Puerto Rico (including any officer, agent, or
14 employee of the Commonwealth of Puerto Rico), once Puerto Rico acquires
15 ownership or control of the Naval Ammunition Support Detachment by the
16 conveyance in subsection (a).

17 (ii) Any political subdivision of the Commonwealth of Puerto
18 Rico (including any officer, agent, or employee of the Commonwealth of Puerto
19 Rico) that acquires such ownership or control.

20 (iii) Any other person or entity that acquires such ownership or control.

21 (iv) Any successor, assignee, transferee, lender, or lessee of a person or entity
22 described in clauses (i) through (iii).

23 (C) To the extent the persons and entities described in subparagraph (B)

1 contributed to any such release or threatened release, subparagraph (A) shall not apply.

2 (2) CONDITIONS.—No indemnification may be afforded under this subsection unless the
3 person or entity making a claim for indemnification—

4 (A) notifies the Department of Defense in writing within two years after such claim
5 accrues or begins action within six months after the date of mailing, by certified or registered
6 mail, of notice of final denial of the claim by the Department of Defense;

7 (B) furnishes to the Department of Defense copies of pertinent papers the entity receives;

8 (C) furnishes evidence or proof of any claim, loss, or damage covered by this subsection;

9 and

10 (D) provides, upon request by the Department of Defense, access to the records and
11 personnel of the entity for purposes of defending or settling the claim or action.

12 (3) AUTHORITY OF SECRETARY OF DEFENSE.—(A) In any case in which the secretary of
13 Defense determines that the Department of Defense may be required to make indemnification
14 payments to a person under this subsection for any suit, claim, demand or action, liability,
15 judgment, cost or other fee arising out of any claim for personal injury or property damage
16 referred to in paragraph (1)(A), the Secretary may settle or defend, on behalf of that person, the
17 claim for personal injury or property damage.

18 (B) In any case described in subparagraph (A), if the person to whom the Department of
19 Defense may be required to make indemnification payments does not allow the Secretary to settle
20 or defend the claim, the person may not be afforded indemnification with respect to that claim
21 under this subsection.

22 (4) ACCRUAL OF ACTION.—For purposes of paragraph (2)(A), the date on which a claim
23 accrues is the date on which the plaintiff knew (or reasonably should have known) that the

1 personal injury or property damage referred to in paragraph (1) was caused or contributed to by
2 the release or threatened release of a hazardous substance or pollutant or contaminant as a result
3 of Department of Defense activities at any part of the Naval Ammunition Support Detachment
4 conveyed pursuant to subsection (a).

5 (5) RELATIONSHIP TO OTHER LAW.—Nothing in this subsection shall be construed as
6 affecting or modifying in any way subsection 120(h) of the Comprehensive Environmental
7 Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

8 (6) DEFINITIONS.—In this subsection, the terms "hazardous substance", "release", and
9 "pollutant or contaminant" have the meanings given such terms under paragraphs (9), (14), (22),
10 and (33) of section 101 of the Comprehensive Environmental Response, Compensation, and
11 Liability Act of 1980, respectively (42 U.S.C. 9601(9), (14), (22), and (33)).

12 (f) MANAGEMENT.—(1) Those areas designated in the western end of the island
13 designated as Conservation Zones in section IV of the 1983 Memorandum of Understanding
14 between the Commonwealth of Puerto Rico and the United States Department of the Navy, shall
15 be subject to a co-management agreement among the Commonwealth of Puerto Rico, the Puerto
16 Rico Conservation Trust and the Department of the Interior. Areas adjacent to these
17 Conservation Zones, referenced above, shall also be considered for inclusion under the co-
18 management agreement. Adjacent areas to be included under the co-management agreement
19 shall be mutually agreed to by the Commonwealth of Puerto Rico and the United States. This
20 determination of inclusion of lands shall be incorporated into the co-management agreement
21 process as set forth in the following paragraph. In addition, the Sea Grass Area west of Mosquito
22 Pier, as identified in the 1983 Memorandum of Understanding, shall be included in the co-
23 management plan to be protected under the laws of the Commonwealth of Puerto Rico.

1 (2) All lands included under the co-management agreement shall be managed to protect
2 and preserve the natural resources of these areas in perpetuity. The Commonwealth of Puerto
3 Rico, the Puerto Rico Conservation Trust and the Department of the Interior shall follow all
4 applicable federal environmental laws during the creation and any subsequent amendment of the
5 co-management agreement, including, but not limited to, the National Environmental Policy Act,
6 the Endangered Species Act and the National Historic Preservation Act. The co-management
7 agreement shall be completed within six months of the date of enactment of this legislation or by
8 December 31, 2000, whichever is earlier. The co-management agreement shall be completed
9 prior to any transfer of property, but not later than December 31, 2000. The Commonwealth of
10 Puerto Rico will implement the terms and conditions of the co-management agreement, which
11 can only be amended by agreement of the Commonwealth of Puerto Rico, the Puerto Rico
12 Conservation Trust and the Department of the Interior.

13 (3) Contingent on funds being available in fiscal year 2000 specifically for the
14 preservation and protection of natural resources on Vieques, amounts necessary to carry out the
15 co-management agreement may be made available to the National Fish and Wildlife Foundation
16 to establish and manage an endowment for the management of lands transferred to the
17 Commonwealth of Puerto Rico subject to the co-management agreement. The proceeds from
18 investment will be available on an annual basis. The Foundation will strive to leverage annual
19 proceeds with non-federal funds to the fullest extent possible.

Sectional Analysis

This legislation implements paragraph 5.f. of the President's directive dated January 31, 2000, entitled Resolution Regarding Use of Range Facilities on Vieques, Puerto Rico (Referendum). This legislation requires the Secretary of the Navy, to transfer to the Government of Puerto Rico, acting through the Planning Board of the Government of Puerto Rico for the

benefit of the Municipality of Vieques, the land on the western end of the island now constituting the Naval Ammunition Support Detachment by December 31, 2000. The Secretary of the Navy has authority to retain easements, rights-of-way and other interests as necessary to protect human health, the environment, natural resources of Vieques, and the continued operation of the Relocatable Over The Horizon Radar (ROTHR) at Mt. Pirata telecommunications facility. This legislation provides two alternatives for the Secretary of the Navy to employ in discharging his responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); one in which the covenant required by Section 120 of CERCLA can be given as of December 31, 2000; and one in which such covenant cannot be given by that date. The end result of both alternatives, however, is full compliance with the requirements of CERCLA. Finally, this legislation requires, simultaneous with the land transfer, a co-management agreement among the Commonwealth of Puerto Rico, the Puerto Rico Conservation Trust, and the Department of the Interior for the protection and preservation of environmentally sensitive lands on Vieques.