

Union Calendar No. 86

113TH CONGRESS
1ST SESSION

H. R. 1672

[Report No. 113–121, Part I]

To withdraw and reserve certain public lands administered by the Bureau of Land Management for exclusive military use as part of the Limestone Hills Training Area, Montana, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 23, 2013

Mr. DAINES (for himself and Mr. BISHOP of Utah) 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

JUNE 24, 2013

Additional sponsor: Mr. AMODEI

JUNE 24, 2013

Reported from the Committee on Natural Resources with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

JUNE 24, 2013

The Committee on Armed Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on April 23, 2013]

A BILL

To withdraw and reserve certain public lands administered by the Bureau of Land Management for exclusive military use as part of the Limestone Hills Training Area, Montana, 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.**

4 *This Act may be cited as the “Limestone Hills Train-*
5 *ing Area Withdrawal Act”.*

6 **SEC. 2. WITHDRAWAL AND RESERVATION OF PUBLIC LANDS**

7 **FOR LIMESTONE HILLS TRAINING AREA, MON-**
8 **TANA.**

9 (a) *WITHDRAWAL.*—*Subject to valid existing rights*
10 *and except as provided in this Act, the public lands and*
11 *interests in lands described in subsection (c), and all other*
12 *areas within the boundaries of such lands as depicted on*
13 *the map provided for by subsection (d) that may become*
14 *subject to the operation of the public land laws, are hereby*
15 *withdrawn from all forms of appropriation under the pub-*
16 *lic land laws, including the mining laws and the mineral*
17 *leasing and geothermal leasing laws.*

18 (b) *RESERVATION; PURPOSE.*—*Subject to the limita-*
19 *tions and restrictions contained in section 4, the public*
20 *lands withdrawn by subsection (a) are reserved for use by*
21 *the Secretary of the Army for the following purposes:*

22 (1) *The conduct of training for active and re-*
23 *serve components of the Armed Forces.*

1 (2) *The construction, operation, and maintenance of organizational support and maintenance facilities for component units conducting training.*

4 (3) *The conduct of training by the Montana Department of Military Affairs, except that any such use may not interfere with purposes specified in paragraphs (1) and (2).*

8 (4) *The conduct of training by State and local law enforcement agencies, civil defense organizations, and public education institutions, except that any such use may not interfere with military training activities.*

13 (5) *Other defense-related purposes consistent with the purposes specified in the preceding paragraphs.*

16 (c) *LAND DESCRIPTION.—The public lands and interests in lands withdrawn and reserved by this section comprise approximately 18,644 acres in Broadwater County, Montana, as generally depicted as “Proposed Land Withdrawal” on the map titled “Limestone Hills Training Area Land Withdrawal”, dated April 10, 2013.*

22 (d) *LEGAL DESCRIPTION AND MAP.—*

23 (1) *IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of the Interior shall publish in the Federal Register a*

1 *legal description of the public land withdrawn under*
2 *subsection (a) and a copy of a map depicting the*
3 *legal description of the withdrawn land.*

4 (2) *FORCE OF LAW.*—*The legal description and*
5 *map published under paragraph (1) shall have the*
6 *same force and effect as if included in this Act, except*
7 *that the Secretary of the Interior may correct errors*
8 *in the legal description.*

9 (3) *REIMBURSEMENT OF COSTS.*—*The Secretary*
10 *of the Army shall reimburse the Secretary of the Inte-*
11 *rior for any costs incurred by the Secretary of the In-*
12 *terior in implementing this subsection.*

13 (e) *INDIAN TRIBES.*—*Nothing in this Act shall be con-*
14 *strued as altering any rights reserved for an Indian tribe*
15 *for tribal use of lands within the military land withdrawal*
16 *by treaty or Federal law. The Secretary of the Army shall*
17 *consult with any Indian tribes in the vicinity of the mili-*
18 *tary land withdrawal before taking action within the mili-*
19 *tary land withdrawal affecting tribal rights or cultural re-*
20 *sources protected by treaty or Federal law.*

21 **SEC. 3. MANAGEMENT OF WITHDRAWN AND RESERVED**
22 **LANDS.**

23 *During the period of the withdrawal and reservation*
24 *specified in section 6, the Secretary of the Army shall man-*
25 *age the public lands withdrawn by section 2 for the pur-*

1 *poses specified in subsection (b) of such section, subject to*
2 *the limitations and restrictions contained in section 4.*

3 **SEC. 4. SPECIAL RULES GOVERNING MINERALS MANAGE-**
4 **MENT.**

5 *(a) INDIAN CREEK MINE.—*

6 *(1) IN GENERAL.—Of the lands withdrawn by*
7 *section 2, locatable mineral activities in the approved*
8 *Indian Creek Mine plan of operations, MTM-78300,*
9 *shall be regulated pursuant to subparts 3715 and*
10 *3809 of title 43, Code of Federal Regulations. Of the*
11 *lands withdrawn by section 2, the land area subject*
12 *to the approved plan of operations shall permanently*
13 *remain open to the amendment or relocation of min-*
14 *ing claims (or both) under the Act of May 10, 1872*
15 *(commonly known as the General Mining Act of 1872;*
16 *30 U.S.C. 22 et seq.) to the extent necessary to pre-*
17 *serve the mining operations described in the approved*
18 *plan of operations.*

19 *(2) RESTRICTIONS ON SECRETARY OF THE*
20 *ARMY.—The Secretary of the Army shall make no de-*
21 *termination that the disposition of or exploration for*
22 *minerals as provided for in the approved plan of op-*
23 *erations is inconsistent with the defense-related uses of*
24 *the lands covered by the military land withdrawal.*
25 *The coordination of such disposition of and explo-*

1 *ration for minerals with defense-related uses of such*
2 *lands shall be determined pursuant to procedures in*
3 *an agreement provided for under subsection (c).*

4 *(b) REMOVAL OF UNEXPLODED ORDNANCE ON LANDS*
5 *TO BE MINED.—*

6 *(1) REMOVAL ACTIVITIES.—Subject to the avail-*
7 *ability of funds appropriated for such purpose, the*
8 *Secretary of the Army shall remove unexploded ord-*
9 *nance on lands withdrawn by section 2 that are sub-*
10 *ject to mining under subsection (a), consistent with*
11 *applicable Federal and State law. The Secretary of*
12 *the Army may engage in such removal of unexploded*
13 *ordnance in phases to accommodate the development*
14 *of the Indian Creek Mine pursuant to subsection (a).*

15 *(2) REPORT ON REMOVAL ACTIVITIES.—The Sec-*
16 *retary of the Army shall annually submit to the Sec-*
17 *retary of the Interior a report regarding the*
18 *unexploded ordnance removal activities for the pre-*
19 *vious fiscal year performed pursuant to this sub-*
20 *section. The report shall include—*

21 *(A) the amounts of funding expended for*
22 *unexploded ordnance removal on the lands with-*
23 *drawn by section 2; and*

1 (B) the identification of the lands cleared of
2 unexploded ordnance and approved for mining
3 activities by the Secretary of the Interior.

4 (c) *IMPLEMENTATION AGREEMENT FOR MINING AC-*
5 *TIVITIES.*—*The Secretary of the Interior and the Secretary*
6 *of the Army shall enter into an agreement to implement*
7 *this section with regard to coordination of defense-related*
8 *uses and mining and the ongoing removal of unexploded*
9 *ordnance. The duration of the agreement shall be the same*
10 *as the period of the withdrawal under section 2, but may*
11 *be amended from time to time. The agreement shall provide*
12 *the following:*

13 (1) *That Graymont Western US, Inc., or any*
14 *successor or assign of the approved Indian Creek*
15 *Mine mining plan of operations, MTM-78300, is in-*
16 *vited to be a party to the agreement.*

17 (2) *Provisions regarding the day-to-day joint-use*
18 *of the Limestone Hills Training Area.*

19 (3) *Provisions addressing when military and*
20 *other authorized uses of the withdrawn lands will*
21 *occur.*

22 (4) *Provisions regarding when and where mili-*
23 *tary use or training with explosive material will*
24 *occur.*

1 (5) *Provisions regarding the scheduling of train-*
2 *ing activities conducted within the withdrawn area*
3 *that restrict mining activities and procedures for*
4 *deconfliction with mining operations, including pa-*
5 *rameters for notification and sanction of anticipated*
6 *changes to the schedule.*

7 (6) *Provisions regarding liability and compensa-*
8 *tion for damages or injury caused by mining or mili-*
9 *tary training activities.*

10 (7) *Provisions for periodic review of the agree-*
11 *ment for its adequacy, effectiveness, and need for revi-*
12 *sion.*

13 (8) *Procedures for access through mining oper-*
14 *ations covered by this section to training areas within*
15 *the boundaries of the Limestone Hills Training Area.*

16 (9) *Procedures for scheduling of the removal of*
17 *unexploded ordnance.*

18 (d) *EXISTING MEMORANDUM OF AGREEMENT.—Until*
19 *such time as the agreement required under subsection (c)*
20 *becomes effective, the compatible joint use of the lands with-*
21 *drawn and reserved by section 2 shall be governed, to the*
22 *extent compatible, by the terms of the 2005 Memorandum*
23 *of Agreement among the Montana Army National Guard,*
24 *Graymont Western US Inc. and the Bureau of Land Man-*
25 *agement.*

1 **SEC. 5. GRAZING.**

2 (a) *ISSUANCE AND ADMINISTRATION OF PERMITS AND*
3 *LEASES.*—*The issuance and administration of grazing per-*
4 *mits and leases, including their renewal, on the public*
5 *lands withdrawn by section 2 shall be managed by the Sec-*
6 *retary of the Interior consistent with all applicable laws,*
7 *regulations, and policies of the Secretary of the Interior re-*
8 *lating to such permits and leases.*

9 (b) *SAFETY REQUIREMENTS.*—*With respect to any*
10 *grazing permit or lease issued after the date of the enact-*
11 *ment of this Act for lands withdrawn by section 2, the Sec-*
12 *retary of the Interior and the Secretary of the Army shall*
13 *jointly establish procedures that are consistent with Depart-*
14 *ment of the Army explosive and range safety standards and*
15 *that provide for the safe use of any such lands.*

16 (c) *ASSIGNMENT.*—*The Secretary of the Interior may,*
17 *with the agreement of the Secretary of the Army, assign*
18 *the authority to issue and to administer grazing permits*
19 *and leases to the Secretary of the Army, except that such*
20 *an assignment may not include the authority to discontinue*
21 *grazing on the lands withdrawn by section 2.*

22 **SEC. 6. DURATION OF WITHDRAWAL AND RESERVATION.**

23 *The military land withdrawal made by section 2 shall*
24 *terminate on March 31, 2039.*

1 **SEC. 7. PAYMENTS IN LIEU OF TAXES.**

2 *The lands withdrawn by section 2 shall remain eligible*
3 *as entitlement land under 31 U.S.C. 6901.*

4 **SEC. 8. HUNTING, FISHING AND TRAPPING.**

5 *All hunting, fishing and trapping on the lands with-*
6 *drawn by section 2 shall be conducted in accordance with*
7 *the provisions of 10 U.S.C. 2671.*

8 **SEC. 9. WATER RIGHTS.**

9 *(a) WATER RIGHTS.—Nothing in this Act shall be con-*
10 *strued—*

11 *(1) to establish a reservation in favor of the*
12 *United States with respect to any water or water*
13 *right on lands withdrawn by section 2; or*

14 *(2) to authorize the appropriation of water on*
15 *lands withdrawn by section 2 except in accordance*
16 *with applicable State law.*

17 *(b) EFFECT ON PREVIOUSLY ACQUIRED OR RESERVED*
18 *WATER RIGHTS.—This section shall not be construed to af-*
19 *fect any water rights acquired or reserved by the United*
20 *States before the date of the enactment of this Act.*

21 **SEC. 10. BRUSH AND RANGE FIRE PREVENTION AND SUP-**
22 **PRESSION.**

23 *(a) REQUIRED ACTIVITIES.—The Secretary of the*
24 *Army shall, consistent with any applicable land manage-*
25 *ment plan, take necessary precautions to prevent, and ac-*
26 *tions to suppress, brush and range fires occurring as a re-*

1 *sult of military activities on the lands withdrawn and re-*
2 *served by section 2, including fires outside those lands that*
3 *spread from the withdrawn land and which occurred as a*
4 *result of such activities.*

5 **(b) COOPERATION OF SECRETARY OF THE INTE-**
6 *RIOR.—At the request of the Secretary of the Army, the Sec-*
7 *retary of the Interior shall provide assistance in the sup-*
8 *pression of such fires and shall be reimbursed for such as-*
9 *sistance by the Secretary of the Army. Notwithstanding* 10
10 *U.S.C. 2215, the Secretary of the Army may transfer to*
11 *the Secretary of the Interior, in advance, funds to reimburse*
12 *the costs of the Department of the Interior in providing such*
13 *assistance.*

14 **SEC. 11. ON-GOING DECONTAMINATION.**

15 *During the withdrawal and reservation authorized by*
16 *section 2, the Secretary of the Army shall maintain, to the*
17 *extent funds are available for such purpose, a program of*
18 *decontamination of contamination caused by defense-re-*
19 *lated uses on such lands consistent with applicable Federal*
20 *and State law. The Secretary of Defense shall include a de-*
21 *scription of such decontamination activities in the annual*
22 *report required by section 10 U.S.C. 2711.*

1 **SEC. 12. APPLICATION FOR RENEWAL OF A WITHDRAWAL**
2 **AND RESERVATION.**

3 (a) *NOTICE.*—*To the extent practicable, no later than*
4 *five years before the termination of the withdrawal and res-*
5 *ervation made by section 2, the Secretary of the Army shall*
6 *notify the Secretary of the Interior whether the Secretary*
7 *of the Army will have a continuing defense-related need for*
8 *any of the lands withdrawn and reserved by section 2 after*
9 *the termination date of such withdrawal and reservation.*
10 *The Secretary of the Army shall provide a copy of the notice*
11 *to the Committee on Armed Services and the Committee on*
12 *Energy and Natural Resources of the Senate and the Com-*
13 *mittee on Armed Services and the Committee on Natural*
14 *Resources of the House of Representatives.*

15 (b) *FILING FOR EXTENSION.*—*If the Secretary of the*
16 *Army concludes that there will be a continuing defense-re-*
17 *lated need for any of the withdrawn and reserved lands*
18 *after the termination date, the Secretary of the Army shall*
19 *file an application for extension of the withdrawal and res-*
20 *ervation of such needed lands in accordance with the regula-*
21 *tions and procedures of the Department of the Interior ap-*
22 *plicable to the extension of withdrawals and reservations.*

23 **SEC. 13. LIMITATION ON SUBSEQUENT AVAILABILITY OF**
24 **LANDS FOR APPROPRIATION.**

25 *At the time of termination of a withdrawal and res-*
26 *ervation made by section 2, the previously withdrawn lands*

1 *shall not be open to any form of appropriation under the*
2 *public land laws, including the mining laws and the min-*
3 *eral leasing and geothermal leasing laws, until the Sec-*
4 *retary of the Interior publishes in the Federal Register an*
5 *appropriate order specifying the date upon which such*
6 *lands shall be restored to the public domain and opened*
7 *for such purposes.*

8 **SEC. 14. RELINQUISHMENT.**

9 (a) *NOTICE OF INTENTION TO RELINQUISH.*—If, dur-
10 *ing the period of withdrawal and reservation under section*
11 *2, the Secretary of the Army decides to relinquish any or*
12 *all of the lands withdrawn and reserved, the Secretary of*
13 *the Army shall file a notice of intention to relinquish with*
14 *the Secretary of the Interior.*

15 (b) *DETERMINATION OF CONTAMINATION.*—As a part
16 *of the notice under subsection (a), the Secretary of the Army*
17 *shall include a written determination concerning whether*
18 *and to what extent the lands that are to be relinquished*
19 *are contaminated with explosive materials or toxic or haz-*
20 *ardous substances.*

21 (c) *PUBLIC NOTICE.*—The Secretary of the Interior
22 *shall publish in the Federal Register the notice of intention*
23 *to relinquish, including the determination concerning the*
24 *contaminated state of the lands.*

1 (d) *DECONTAMINATION OF LANDS TO BE RELIN-*
2 *QUISHED.—*

3 (1) *If land subject of a notice of intention to re-*
4 *linquish pursuant to subsection (a) is contaminated,*
5 *and the Secretary of the Interior, in consultation with*
6 *the Secretary of the Army, determines that decon-*
7 *tamination is practicable and economically feasible*
8 *(taking into consideration the potential future use*
9 *and value of the land) and that, upon decontamina-*
10 *tion, the land could be opened to operation of some*
11 *or all of the public land laws, including the mining*
12 *laws and the mineral leasing and geothermal leasing*
13 *laws, the Secretary of the Army shall decontaminate*
14 *the land to the extent that funds are appropriated for*
15 *such purpose.*

16 (2) *If the Secretary of the Interior, after con-*
17 *sultation with the Secretary of the Army, concludes*
18 *that decontamination of land subject of a notice of in-*
19 *tention to relinquish pursuant to subsection (a) is not*
20 *practicable or economically feasible, or that the land*
21 *cannot be decontaminated sufficiently to be opened to*
22 *operation of some or all of the public land laws, or*
23 *if Congress does not appropriate sufficient funds for*
24 *the decontamination of such land, the Secretary of the*

1 *Interior shall not be required to accept the land pro-*
2 *posed for relinquishment.*

3 *(3) If the Secretary of the Interior declines to ac-*
4 *cept the lands that have been proposed for relinquis-*
5 *ment because of their contaminated state, or if at the*
6 *expiration of the withdrawal and reservation made by*
7 *section 2 the Secretary of the Interior determines that*
8 *some of the lands withdrawn and reserved are con-*
9 *taminated to an extent which prevents opening such*
10 *contaminated lands to operation of the public land*
11 *laws—*

12 *(A) the Secretary of the Army shall take ap-*
13 *propriate steps to warn the public of the con-*
14 *taminated state of such lands and any risks as-*
15 *sociated with entry onto such lands;*

16 *(B) after the expiration of the withdrawal*
17 *and reservation, the Secretary of the Army shall*
18 *undertake no activities on such lands except in*
19 *connection with decontamination of such lands;*
20 *and*

21 *(C) the Secretary of the Army shall report*
22 *to the Secretary of the Interior and to the Con-*
23 *gress concerning the status of such lands and all*
24 *actions taken in furtherance of this paragraph.*

1 (e) *REVOCATION AUTHORITY.*—Upon deciding that it
2 is in the public interest to accept the lands proposed for
3 relinquishment pursuant to subsection (a), the Secretary of
4 the Interior may order the revocation of the withdrawal and
5 reservation made by section 2 as it applies to such lands.
6 The Secretary of the Interior shall publish in the Federal
7 Register the revocation order, which shall—

8 (1) terminate the withdrawal and reservation;

9 (2) constitute official acceptance of the lands by
10 the Secretary of the Interior; and

11 (3) state the date upon which the lands will be
12 opened to the operation of some or all of the public
13 land laws, including the mining laws.

14 (f) *ACCEPTANCE BY SECRETARY OF THE INTERIOR.*—
15 Nothing in this section shall be construed to require the Sec-
16 retary of the Interior to accept the lands proposed for relin-
17 quishment if the Secretary determines that such lands are
18 not suitable for return to the public domain. If the Sec-
19 retary makes such a determination, the Secretary shall pro-
20 vide notice of the determination to Congress.

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