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SENATE

{ REPORT  
{ 113-161

### MILITARY LAND WITHDRAWALS

MAY 14, 2014.—Ordered to be printed

Ms. LANDRIEU, from the Committee on Energy and Natural Resources, submitted the following

### R E P O R T

[To accompany S. 1309]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1309) to withdraw and reserve certain public land under the jurisdiction of the Secretary of the Interior for military uses, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Military Land Withdrawals Act of 2013”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

#### TITLE I—GENERAL PROVISIONS

Sec. 101. General applicability; definitions.

Sec. 102. Maps and legal descriptions.

Sec. 103. Access restrictions.

Sec. 104. Changes in use.

Sec. 105. Authorizations for nondefense-related uses.

Sec. 106. Brush and range fire prevention and suppression.

Sec. 107. Ongoing decontamination.

Sec. 108. Water rights.

Sec. 109. Hunting, fishing, and trapping.

Sec. 110. Limitation on extensions and renewals.

Sec. 111. Application for renewal of a withdrawal and reservation.

Sec. 112. Limitation on subsequent availability of land for appropriation.

Sec. 113. Relinquishment.

Sec. 114. Land withdrawals; immunity of the United States.

## TITLE II—MILITARY LAND WITHDRAWALS

- Sec. 201. China Lake, California.  
 Sec. 202. Limestone Hills, Montana.  
 Sec. 203. Chocolate Mountain, California.  
 Sec. 204. Twentynine Palms, California.  
 Sec. 205. White Sands Missile Range and Fort Bliss.

**SEC. 2. DEFINITIONS.**

In this Act:

- (1) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).
- (2) MANAGE; MANAGEMENT.—
- (A) INCLUSIONS.—The terms “manage” and “management” include the authority to exercise jurisdiction, custody, and control over the land withdrawn and reserved by title II.
- (B) EXCLUSIONS.—The terms “manage” and “management” do not include authority for disposal of the land withdrawn and reserved by title II.
- (3) SECRETARY CONCERNED.—The term “Secretary concerned” has the meaning given the term in section 101(a) of title 10, United States Code.

**TITLE I—GENERAL PROVISIONS****SEC. 101. GENERAL APPLICABILITY; DEFINITIONS.**

(a) APPLICABILITY OF TITLE.—The provisions of this title apply to any withdrawal made by this Act.

(b) RULES OF CONSTRUCTION.—Nothing in this title assigns management of real property under the administrative jurisdiction of the Secretary concerned to the Secretary of the Interior.

**SEC. 102. MAPS AND LEGAL DESCRIPTIONS.**

(a) PREPARATION OF MAPS AND LEGAL DESCRIPTIONS.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall—

- (1) publish in the Federal Register a notice containing the legal description of the land withdrawn and reserved by title II; and
- (2) file maps and legal descriptions of the land withdrawn and reserved by title II with—

- (A) the Committee on Armed Services and the Committee on Energy and Natural Resources of the Senate; and
- (B) the Committee on Armed Services and the Committee on Natural Resources of the House of Representatives.

(b) LEGAL EFFECT.—The maps and legal descriptions filed under subsection (a)(2) shall have the same force and effect as if the maps and legal descriptions were included in this Act, except that the Secretary of the Interior may correct any clerical and typographical errors in the maps and legal descriptions.

(c) AVAILABILITY.—Copies of the maps and legal descriptions filed under subsection (a)(2) shall be available for public inspection—

- (1) in the appropriate offices of the Bureau of Land Management;
- (2) in the office of the commanding officer of the military installation for which the land is withdrawn; and
- (3) if the military installation is under the management of the National Guard, in the office of the Adjutant General of the State in which the military installation is located.

(d) COSTS.—The Secretary concerned shall reimburse the Secretary of the Interior for the costs incurred by the Secretary of the Interior in implementing this section.

**SEC. 103. ACCESS RESTRICTIONS.**

(a) IN GENERAL.—If the Secretary concerned determines that military operations, public safety, or national security require the closure to the public of any road, trail, or other portion of land withdrawn and reserved by this Act, the Secretary may take such action as the Secretary determines to be necessary to implement and maintain the closure.

(b) LIMITATION.—Any closure under subsection (a) shall be limited to the minimum area and duration that the Secretary concerned determines are required for the purposes of the closure.

(c) CONSULTATION REQUIRED.—

(1) **IN GENERAL.**—Subject to paragraph (3), before a closure is implemented under this section, the Secretary concerned shall consult with the Secretary of the Interior.

(2) **INDIAN TRIBE.**—Subject to paragraph (3), if a closure proposed under this section may affect access to or use of sacred sites or resources considered to be important by an Indian tribe, the Secretary concerned shall consult, at the earliest practicable date, with the affected Indian tribe.

(3) **LIMITATION.**—No consultation shall be required under paragraph (1) or (2)—

(A) if the closure is provided for in an integrated natural resources management plan, an installation cultural resources management plan, or a land use management plan; or

(B) in the case of an emergency, as determined by the Secretary concerned.

(d) **NOTICE.**—Immediately preceding and during any closure implemented under subsection (a), the Secretary concerned shall post appropriate warning notices and take other appropriate actions to notify the public of the closure.

**SEC. 104. CHANGES IN USE.**

(a) **OTHER USES AUTHORIZED.**—In addition to the purposes described in title II, the Secretary concerned may authorize the use of land withdrawn and reserved by this Act for defense-related purposes.

(b) **NOTICE TO SECRETARY OF THE INTERIOR.**—

(1) **IN GENERAL.**—The Secretary concerned shall promptly notify the Secretary of the Interior if the land withdrawn and reserved by this Act is used for additional defense-related purposes.

(2) **REQUIREMENTS.**—A notification under paragraph (1) shall specify—

(A) each additional use;

(B) the planned duration of each additional use; and

(C) the extent to which each additional use would require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nondefense-related uses of the withdrawn and reserved land or portions of withdrawn and reserved land.

**SEC. 105. AUTHORIZATIONS FOR NONDEFENSE-RELATED USES.**

(a) **AUTHORIZATIONS BY THE SECRETARY OF THE INTERIOR.**—Subject to the applicable withdrawals under title II, with the consent of the Secretary concerned, the Secretary of the Interior may authorize the use, occupancy, or development of the land withdrawn and reserved by this Act.

(b) **AUTHORIZATIONS BY THE SECRETARY CONCERNED.**—The Secretary concerned may authorize the use, occupancy, or development of the land withdrawn and reserved by this Act—

(1) for a defense-related purpose; or

(2) subject to the consent of the Secretary of the Interior, for a non-defense-related purpose.

(c) **FORM OF AUTHORIZATION.**—An authorization under this section may be provided by lease, easement, right-of-way, permit, license, or other instrument authorized by law.

(d) **PREVENTION OF DRAINAGE OF OIL OR GAS RESOURCES.**—

(1) **IN GENERAL.**—For the purpose of preventing drainage of oil or gas resources, the Secretary of the Interior may lease land otherwise withdrawn from operation of the mineral leasing laws and reserved for defense-related purposes under this Act, under such terms and conditions as the Secretary determines to be appropriate.

(2) **CONSENT REQUIRED.**—No surface occupancy may be approved by the Secretary of the Interior under this Act without the consent of the Secretary concerned.

(3) **COMMUNITIZATION.**—The Secretary of the Interior may unitize or consent to communitization of land leased under paragraph (1).

(4) **REGULATIONS.**—The Secretary of the Interior may promulgate regulations to implement this subsection.

**SEC. 106. BRUSH AND RANGE FIRE PREVENTION AND SUPPRESSION.**

(a) **REQUIRED ACTIVITIES.**—The Secretary concerned shall, consistent with any applicable land management plan, take necessary precautions to prevent, and actions to suppress, brush and range fires occurring as a result of military activities on the land withdrawn and reserved by this Act, including fires that occur on other land that spread from the withdrawn and reserved land.

(b) **COOPERATION OF SECRETARY OF THE INTERIOR.**—

(1) **IN GENERAL.**—At the request of the Secretary concerned, the Secretary of the Interior shall—

(A) provide assistance in the suppression of fires under subsection (a); and

(B) be reimbursed by the Secretary concerned for the costs of the Secretary of the Interior in providing the assistance.

(2) **TRANSFER OF FUNDS.**—Notwithstanding section 2215 of title 10, United States Code, the Secretary concerned may transfer to the Secretary of the Interior, in advance, funds to reimburse the costs of the Department of the Interior in providing assistance under this subsection.

**SEC. 107. ONGOING DECONTAMINATION.**

(a) **IN GENERAL.**—During the period of a withdrawal and reservation of land under this Act, the Secretary concerned shall maintain a program of decontamination of contamination caused by defense-related uses on the withdrawn land—

(1) to the extent funds are available to carry out this subsection; and

(2) consistent with applicable Federal and State law.

(b) **ANNUAL REPORT.**—The Secretary of Defense shall include in the annual report required by section 2711 of title 10, United States Code, a description of decontamination activities conducted under subsection (a)

**SEC. 108. WATER RIGHTS.**

(a) **NO RESERVATION OF WATER RIGHTS.**—Nothing in this Act—

(1) establishes a reservation of the United States with respect to any water or water right on the land withdrawn and reserved by this Act; or

(2) authorizes the appropriation of water on the land withdrawn and reserved by this Act, except in accordance with applicable State law.

(b) **EFFECT ON PREVIOUSLY ACQUIRED OR RESERVED WATER RIGHTS.**—

(1) **IN GENERAL.**—Nothing in this section affects any water rights acquired or reserved by the United States before the date of enactment of this Act.

(2) **AUTHORITY OF SECRETARY CONCERNED.**—The Secretary concerned may exercise any water rights described in paragraph (1).

**SEC. 109. HUNTING, FISHING, AND TRAPPING.**

Section 2671 of title 10, United States Code, shall apply to all hunting, fishing, and trapping on the land—

(1) that is withdrawn and reserved by this Act; and

(2) for which management of the land has been assigned to the Secretary concerned.

**SEC. 110. LIMITATION ON EXTENSIONS AND RENEWALS.**

The withdrawals and reservations established under this Act may not be extended or renewed except by a law enacted after the date of enactment of this Act.

**SEC. 111. APPLICATION FOR RENEWAL OF A WITHDRAWAL AND RESERVATION.**

To the extent practicable, not later than 5 years before the date of termination of a withdrawal and reservation established by this Act, the Secretary concerned shall—

(1) notify the Secretary of the Interior as to whether the Secretary concerned will have a continuing defense-related need for any of the land withdrawn and reserved by this Act after the termination date of the withdrawal and reservation; and

(2) transmit a copy of the notice submitted under paragraph (1) to—

(A) the Committee on Armed Services and the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Armed Services and the Committee on Natural Resources of the House of Representatives.

**SEC. 112. LIMITATION ON SUBSEQUENT AVAILABILITY OF LAND FOR APPROPRIATION.**

On the termination of a withdrawal and reservation by this Act, the previously withdrawn land shall not be open to any form of appropriation under the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws, unless the Secretary of the Interior publishes in the Federal Register an appropriate order specifying the date on which the land shall be—

(1) restored to the public domain; and

(2) opened for appropriation under the public land laws.

**SEC. 113. RELINQUISHMENT.**

(a) **NOTICE OF INTENTION TO RELINQUISH.**—If, during the period of withdrawal and reservation under this Act, the Secretary concerned decides to relinquish any or all of the land withdrawn and reserved by this Act, the Secretary concerned shall submit to the Secretary of the Interior notice of the intention to relinquish the land.

(b) DETERMINATION OF CONTAMINATION.—The Secretary concerned shall include in the notice submitted under subsection (a) a written determination concerning whether and to what extent the land that is to be relinquished is contaminated with explosive materials or toxic or hazardous substances.

(c) PUBLIC NOTICE.—The Secretary of the Interior shall publish in the Federal Register the notice of intention to relinquish the land under this section, including the determination concerning the contaminated state of the land.

(d) DECONTAMINATION OF LAND TO BE RELINQUISHED.—

(1) DECONTAMINATION REQUIRED.—The Secretary concerned shall decontaminate land subject to a notice of intention under subsection (a) to the extent that funds are appropriated for that purpose, if—

(A) the land subject to the notice of intention is contaminated, as determined by the Secretary concerned; and

(B) the Secretary of the Interior, in consultation with the Secretary concerned, determines that—

(i) decontamination is practicable and economically feasible, after taking into consideration the potential future use and value of the contaminated land; and

(ii) on decontamination of the land, the land could be opened to operation of some or all of the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws.

(2) ALTERNATIVES TO RELINQUISHMENT.—The Secretary of the Interior shall not be required to accept the land proposed for relinquishment under subsection (a), if—

(A) the Secretary of the Interior, after consultation with the Secretary concerned, determines that—

(i) decontamination of the land is not practicable or economically feasible; or

(ii) the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws; or

(B) sufficient funds are not appropriated for the decontamination of the land.

(3) STATUS OF CONTAMINATED LAND ON TERMINATION.—If, because of the contaminated state of the land, the Secretary of the Interior declines to accept land withdrawn and reserved by this Act that has been proposed for relinquishment, or if at the expiration of the withdrawal and reservation made by this Act, the Secretary of the Interior determines that a portion of the land withdrawn and reserved by this Act is contaminated to an extent that prevents opening the contaminated land to operation of the public land laws—

(A) the Secretary concerned shall take appropriate steps to warn the public of—

(i) the contaminated state of the land; and

(ii) any risks associated with entry onto the land;

(B) after the expiration of the withdrawal and reservation under this Act, the Secretary concerned shall undertake no activities on the contaminated land, except for activities relating to the decontamination of the land; and

(C) the Secretary concerned shall submit to the Secretary of the Interior and Congress a report describing—

(i) the status of the land; and

(ii) any actions taken under this paragraph.

(e) REVOCATION AUTHORITY.—

(1) IN GENERAL.—If the Secretary of the Interior determines that it is in the public interest to accept the land proposed for relinquishment under subsection (a), the Secretary of the Interior may order the revocation of a withdrawal and reservation established by this Act.

(2) REVOCATION ORDER.—To carry out a revocation under paragraph (1), the Secretary of the Interior shall publish in the Federal Register a revocation order that—

(A) terminates the withdrawal and reservation;

(B) constitutes official acceptance of the land by the Secretary of the Interior; and

(C) specifies the date on which the land will be opened to the operation of some or all of the public land laws, including the mining laws.

(f) ACCEPTANCE BY SECRETARY OF THE INTERIOR.—

(1) IN GENERAL.—Nothing in this section requires the Secretary of the Interior to accept the land proposed for relinquishment if the Secretary determines that the land is not suitable for return to the public domain.

(2) NOTICE.—If the Secretary makes a determination that the land is not suitable for return to the public domain, the Secretary shall provide notice of the determination to Congress.

**SEC. 114. LAND WITHDRAWALS; IMMUNITY OF THE UNITED STATES.**

The United States and officers and employees of the United States shall be held harmless and shall not be liable for any injuries or damages to persons or property incurred as a result of any mining or mineral or geothermal leasing activity or other authorized nondefense-related activity conducted on land withdrawn and reserved by this Act.

## **TITLE II—MILITARY LAND WITHDRAWALS**

**SEC. 201. CHINA LAKE, CALIFORNIA.**

(a) WITHDRAWAL AND RESERVATION.—

(1) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this section, the public land (including the interests in land) described in paragraph (2), and all other areas within the boundary of the land depicted on the map described in that paragraph that may become subject to the operation of the public land laws, is withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws).

(2) DESCRIPTION OF LAND.—The public land (including interests in land) referred to in paragraph (1) is the Federal land located within the boundaries of the Naval Air Weapons Station China Lake, comprising approximately 1,045,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on the maps entitled “Naval Air Weapons Station China Lake Withdrawal—Renewal”, “North Range”, and “South Range”, dated March 18, 2013, and filed in accordance with section 102.

(3) RESERVATION.—The land withdrawn by paragraph (1) is reserved for use by the Secretary of the Navy for the following purposes:

- (A) Use as a research, development, test, and evaluation laboratory.
- (B) Use as a range for air warfare weapons and weapon systems.
- (C) Use as a high-hazard testing and training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support, and directed energy and unmanned aerial systems.
- (D) Geothermal leasing, development, and related power production activities.
- (E) Other defense-related purposes consistent with the purposes described in subparagraphs (A) through (D) and authorized under section 104.

(b) MANAGEMENT OF WITHDRAWN AND RESERVED LAND.—

(1) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—

(A) IN GENERAL.—Except as provided in paragraph (2), during the period of the withdrawal and reservation of land by this section, the Secretary of the Interior shall manage the land withdrawn and reserved by this section in accordance with—

- (i) this Act;
- (ii) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and
- (iii) any other applicable law.

(B) AUTHORIZED ACTIVITIES.—To the extent consistent with applicable law and Executive orders, the land withdrawn by this section may be managed in a manner that permits the following activities:

- (i) Grazing.
- (ii) Protection of wildlife and wildlife habitat.
- (iii) Preservation of cultural properties.
- (iv) Control of predatory and other animals.
- (v) Recreation and education.
- (vi) Prevention and appropriate suppression of brush and range fires resulting from non-military activities.
- (vii) Geothermal leasing and development and related power production activities.

(C) NONDEFENSE USES.—All nondefense-related uses of the land withdrawn by this section (including the uses described in subparagraph (B)), shall be subject to any conditions and restrictions that the Secretary of the Interior and the Secretary of the Navy jointly determine to be necessary to permit the defense-related use of the land for the purposes described in this section.

- (D) ISSUANCE OF LEASES.—
- (i) IN GENERAL.—The Secretary of the Interior shall be responsible for the issuance of any lease, easement, right-of-way, permit, license, or other instrument authorized by law with respect to any activity that involves geothermal resources on—
- (I) the land withdrawn and reserved by this section; and
- (II) any other land not under the administrative jurisdiction of the Secretary of the Navy.
- (ii) CONSENT REQUIRED.—Any authorization issued under clause (i) shall—
- (I) only be issued with the consent of the Secretary of the Navy; and
- (II) be subject to such conditions as the Secretary of the Navy may require with respect to the land withdrawn and reserved by this section.
- (3) ASSIGNMENT TO THE SECRETARY OF THE NAVY.—
- (A) IN GENERAL.—The Secretary of the Interior may assign the management responsibility, in whole or in part, for the land withdrawn and reserved by this section to the Secretary of the Navy.
- (B) APPLICABLE LAW.—On assignment of the management responsibility under subparagraph (A), the Secretary of the Navy shall manage the land in accordance with—
- (i) this Act;
- (ii) title I of the Sikes Act (16 U.S.C. 670a et seq.);
- (iii) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);
- (iv) cooperative management arrangements entered into by the Secretary of the Interior and the Secretary of the Navy; and
- (v) any other applicable law.
- (3) GEOTHERMAL RESOURCES.—
- (A) IN GENERAL.—Nothing in this section or section 105 affects—
- (i) geothermal leases issued by the Secretary of the Interior before the date of enactment of this Act; or
- (ii) the responsibility of the Secretary of the Interior to administer and manage the leases described in clause (i), consistent with the provisions of this section.
- (B) AUTHORITY OF THE SECRETARY OF THE INTERIOR.—Nothing in this section or any other provision of law prohibits the Secretary of the Interior from issuing, subject to the concurrence of the Secretary of the Navy, and administering any lease under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and any other applicable law for the development and use of geothermal steam and associated geothermal resources on the land withdrawn and reserved by this section.
- (C) APPLICABLE LAW.—Nothing in this section affects the geothermal exploration and development authority of the Secretary of the Navy under section 2917 of title 10, United States Code, with respect to the land withdrawn and reserved by this section, except that the Secretary of the Navy shall be required to obtain the concurrence of the Secretary of the Interior before taking action under section 2917 of title 10, United States Code.
- (D) NAVY CONTRACTS.—On the expiration of the withdrawal and reservation of land under this section or the relinquishment of the land, any Navy contract for the development of geothermal resources at Naval Air Weapons Station, China Lake, in effect on the date of the expiration or relinquishment shall remain in effect, except that the Secretary of the Interior, with the consent of the Secretary of the Navy, may offer to substitute a standard geothermal lease for the contract.
- (E) CONCURRENCE OF SECRETARY OF THE NAVY REQUIRED.—Any lease issued under section 105(d) with respect to land withdrawn and reserved by this section shall require the concurrence of the Secretary of the Navy, if—
- (i) the Secretary of the Interior anticipates the surface occupancy of the withdrawn land; or
- (ii) the Secretary of the Interior determines that the proposed lease may interfere with geothermal resources on the land.
- (4) WILD HORSES AND BURROS.—
- (A) IN GENERAL.—The Secretary of the Navy—
- (i) shall be responsible for the management of wild horses and burros located on the land withdrawn and reserved by this section; and

- (ii) may use helicopters and motorized vehicles for the management of the wild horses and burros.
- (B) REQUIREMENTS.—The activities authorized under subparagraph (A) shall be conducted in accordance with laws applicable to the management of wild horses and burros on public land.
- (C) AGREEMENT.—The Secretary of the Interior and the Secretary of the Navy shall enter into an agreement for the implementation of the management of wild horses and burros under this paragraph.
- (5) CONTINUATION OF EXISTING AGREEMENT.—The agreement between the Secretary of the Interior and the Secretary of the Navy entered into before the date of enactment of this Act under section 805 of the California Military Lands Withdrawal and Overflights Act of 1994 (Public Law 103–433; 108 Stat. 4503) shall continue in effect until the earlier of—
- (A) the date on which the Secretary of the Interior and the Secretary of the Navy enter into a new agreement; or
- (B) the date that is 1 year after the date of enactment of this Act.
- (6) COOPERATION IN DEVELOPMENT OF MANAGEMENT PLAN.—
- (A) IN GENERAL.—The Secretary of the Navy and the Secretary of the Interior shall update and maintain cooperative arrangements concerning land resources and land uses on the land withdrawn and reserved by this section.
- (B) REQUIREMENTS.—A cooperative arrangement entered into under subparagraph (A) shall—
- (i) focus on and apply to sustainable management and protection of the natural and cultural resources and environmental values found on the withdrawn and reserved land, consistent with the defense-related purposes for which the land is withdrawn and reserved; and
- (ii) include a comprehensive land use management plan that—
- (I) integrates and is consistent with any applicable law, including—
- (aa) title I of the Sikes Act (16 U.S.C. 670a et seq.); and
- (bb) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and
- (II) shall be—
- (aa) annually reviewed by the Secretary of the Navy and the Secretary of the Interior; and
- (bb) updated, as the Secretary of the Navy and the Secretary of the Interior determine to be necessary—
- (AA) to respond to evolving management requirements; and
- (BB) to complement the updates of other applicable land use and resource management and planning.
- (7) IMPLEMENTING AGREEMENT.—
- (A) IN GENERAL.—The Secretary of the Interior and the Secretary of the Navy may enter into a written agreement to implement the comprehensive land use management plan developed under paragraph (6)(B)(ii).
- (B) COMPONENTS.—An agreement entered into under subparagraph (A)—
- (i) shall be for a duration that is equal to the period of the withdrawal and reservation of land under this section; and
- (ii) may be amended from time to time.
- (c) TERMINATION OF PRIOR WITHDRAWALS.—
- (1) IN GENERAL.—Subject to paragraph (2), the withdrawal and reservation under section 803(a) of the California Military Lands Withdrawal and Overflights Act of 1994 (Public Law 103–433; 108 Stat. 4502) is terminated.
- (2) LIMITATION.—Notwithstanding the termination under paragraph (1), all rules, regulations, orders, permits, and other privileges issued or granted by the Secretary of the Interior or the Secretary of the Navy with respect to the land withdrawn and reserved under that section, unless inconsistent with the provisions of this section, shall remain in force until modified, suspended, overruled, or otherwise changed by—
- (A) the Secretary of the Interior or the Secretary of the Navy (as applicable);
- (B) a court of competent jurisdiction; or
- (C) operation of law.
- (d) DURATION OF WITHDRAWAL AND RESERVATION.—The withdrawal and reservation made by this section terminate on March 31, 2039.



**SEC. 202. LIMESTONE HILLS, MONTANA.****(a) WITHDRAWAL AND RESERVATION OF PUBLIC LAND FOR LIMESTONE HILLS TRAINING AREA, MONTANA.—**

(1) **WITHDRAWAL.**—Subject to valid existing rights and except as otherwise provided in this section, the public land (including the interests in land) described in paragraph (3), and all other areas within the boundaries of the land as depicted on the map provided for by paragraph (4) that may become subject to the operation of the public land laws, is withdrawn from all forms of appropriation under the public land laws (including the mining laws, the mineral leasing laws, and the geothermal leasing laws).

(2) **RESERVATION; PURPOSE.**—Subject to the limitations and restrictions contained in subsection (c), the public land withdrawn by paragraph (1) is reserved for use by the Secretary of the Army for the following purposes:

(A) The conduct of training for active and reserve components of the Armed Forces.

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

(C) The conduct of training by the Montana Department of Military Affairs, provided that the training does not interfere with the purposes specified in subparagraphs (A) and (B).

(D) The conduct of training by State and local law enforcement agencies, civil defense organizations, and public education institutions, provided that the training does not interfere with the purposes specified in subparagraphs (A) and (B).

(E) Other defense-related purposes consistent with the purposes specified in subparagraphs (A) through (D).

(3) **DESCRIPTION OF LAND.**—The public land (including the interests in land) referred to in paragraph (1) comprises approximately 18,644 acres in Broadwater County, Montana, generally depicted as “Proposed Land Withdrawal” on the map entitled “Limestone Hills Training Area Land Withdrawal” and dated April 10, 2013.

**(4) INDIAN TRIBES.—**

(A) **IN GENERAL.**—Nothing in this Act alters any rights reserved for an Indian tribe for tribal use of the public land withdrawn by paragraph (1) by treaty or Federal law.

(B) **CONSULTATION REQUIRED.**—The Secretary of the Army shall consult with any Indian tribes in the vicinity of the public land withdrawn by paragraph (1) before taking any action within the public land affecting tribal rights or cultural resources protected by treaty or Federal law.

(b) **MANAGEMENT OF WITHDRAWN AND RESERVED LAND.**—During the period of the withdrawal and reservation specified in subsection (e), the Secretary of the Army shall manage the public land withdrawn by paragraph (1) of subsection (a) for the purposes specified in paragraph (2) of that subsection, subject to the limitations and restrictions contained in subsection (c).

**(c) SPECIAL RULES GOVERNING MINERALS MANAGEMENT.—****(1) INDIAN CREEK MINE.—**

(A) **IN GENERAL.**—Of the land withdrawn by subsection (a)(1), locatable mineral activities in the approved Indian Creek Mine plan of operations, MTM-78300, shall be regulated in accordance with subparts 3715 and 3809 of title 43, Code of Federal Regulations.

**(B) RESTRICTIONS ON SECRETARY OF THE ARMY.—**

(i) **IN GENERAL.**—The Secretary of the Army shall make no determination that the disposition of, or exploration for, minerals as provided for in the approved plan of operations described in subparagraph (A) is inconsistent with the defense-related uses of the land withdrawn under this section.

(ii) **COORDINATION.**—The coordination of the disposition of and exploration for minerals with defense-related uses of the land shall be determined in accordance with procedures in an agreement provided for under paragraph (3).

**(2) REMOVAL OF UNEXPLODED ORDNANCE ON LAND TO BE MINED.—****(A) REMOVAL ACTIVITIES.—**

(i) **IN GENERAL.**—Subject to the availability of funds appropriated for such purpose, the Secretary of the Army shall remove unexploded ordnance on land withdrawn by subsection (a)(1) that is subject to mining under paragraph (1), consistent with applicable Federal and State law.

(ii) **PHASES.**—The Secretary of the Army may provide for the removal of unexploded ordnance in phases to accommodate the development of the Indian Creek Mine under paragraph (1).

- (B) REPORT ON REMOVAL ACTIVITIES.—
- (i) IN GENERAL.—The Secretary of the Army shall annually submit to the Secretary of the Interior a report regarding any unexploded ordnance removal activities conducted during the previous fiscal year in accordance with this paragraph.
- (ii) INCLUSIONS.—The report under clause (i) shall include—
- (I) a description of the amounts expended for unexploded ordnance removal on the land withdrawn by subsection (a)(1) during the period covered by the report; and
- (II) the identification of the land cleared of unexploded ordnance and approved for mining activities by the Secretary of the Interior under this paragraph.
- (3) IMPLEMENTATION AGREEMENT FOR MINING ACTIVITIES.—
- (A) IN GENERAL.—The Secretary of the Interior and the Secretary of the Army shall enter into an agreement to implement this subsection with respect to the coordination of defense-related uses and mining and the ongoing removal of unexploded ordnance.
- (B) DURATION.—The duration of an agreement entered into under subparagraph (A) shall be equal to the period of the withdrawal under subsection (a)(1), but may be amended from time to time.
- (C) REQUIREMENTS.—The agreement shall provide the following:
- (i) That Graymont Western US, Inc., or any successor or assign of the approved Indian Creek Mine mining plan of operations, MTM-78300, shall be invited to be a party to the agreement.
- (ii) Provisions regarding the day-to-day joint-use of the Limestone Hills Training Area.
- (iii) Provisions addressing periods during which military and other authorized uses of the withdrawn land will occur.
- (iv) Provisions regarding when and where military use or training with explosive material will occur.
- (v) Provisions regarding the scheduling of training activities conducted within the withdrawn land that restrict mining activities.
- (vi) Procedures for deconfliction with mining operations, including parameters for notification and resolution of anticipated changes to the schedule.
- (vii) Procedures for access through mining operations covered by this section to training areas within the boundaries of the Limestone Hills Training Area.
- (viii) Procedures for scheduling of the removal of unexploded ordnance.
- (4) EXISTING MEMORANDUM OF AGREEMENT.—Until the date on which the agreement under paragraph (3) becomes effective, the compatible joint use of the land withdrawn and reserved by subsection (a)(1) shall be governed, to the extent compatible, by the terms of the 2005 Memorandum of Agreement among the Montana Army National Guard, Graymont Western US, Inc., and the Bureau of Land Management.
- (d) GRAZING.—
- (1) ISSUANCE AND ADMINISTRATION OF PERMITS AND LEASES.—The Secretary of the Interior shall manage the issuance and administration of grazing permits and leases, including the renewal of permits and leases, on the public land withdrawn by subsection (a)(1), consistent with all applicable laws (including regulations) and policies of the Secretary of the Interior relating to the permits and leases.
- (2) SAFETY REQUIREMENTS.—With respect to any grazing permit or lease issued after the date of enactment of this Act for land withdrawn by subsection (a)(1), the Secretary of the Interior and the Secretary of the Army shall jointly establish procedures that—
- (A) are consistent with Department of the Army explosive and range safety standards; and
- (B) provide for the safe use of the withdrawn land.
- (3) ASSIGNMENT.—The Secretary of the Interior may, with the agreement of the Secretary of the Army, assign the authority to issue and to administer grazing permits and leases to the Secretary of the Army, except that the assignment may not include the authority to discontinue grazing on the land withdrawn by subsection (a)(1).
- (e) DURATION OF WITHDRAWAL AND RESERVATION.—The withdrawal of public land by subsection (a)(1) shall terminate on March 31, 2039.

**SEC. 203. CHOCOLATE MOUNTAIN, CALIFORNIA.****(a) WITHDRAWAL AND RESERVATION.—**

(1) **WITHDRAWAL.**—Subject to valid existing rights and except as otherwise provided in this section, the public land (including the interests in land) described in paragraph (2), and all other areas within the boundary of the land depicted on the map described in that paragraph that become subject to the operation of the public land laws, is withdrawn from all forms of appropriation under the public land laws (including the mining laws, the mineral leasing laws, and the geothermal leasing laws).

(2) **DESCRIPTION OF LAND.**—The public land (including the interests in land) referred to in paragraph (1) is the Federal land comprising approximately 228,324 acres in Imperial and Riverside Counties, California, generally depicted on the map entitled “Chocolate Mountain Aerial Gunnery Range—Administration’s Land Withdrawal Legislative Proposal Map”, dated October 30, 2013, and filed in accordance with section 102.

(3) **RESERVATION.**—The land withdrawn by paragraph (1) is reserved for use by the Secretary of the Navy for the following purposes:

(A) Testing and training for aerial bombing, missile firing, tactical maneuvering, and air support.

(B) Small unit ground forces training, including artillery firing, demolition activities, and small arms field training.

(C) Other defense-related purposes consistent with the purposes that are—

(i) described in subparagraphs (A) and (B); and

(ii) authorized under section 104.

**(b) MANAGEMENT OF WITHDRAWN AND RESERVED LAND.—**

(1) **MANAGEMENT BY THE SECRETARY OF THE INTERIOR.**—Except as provided in paragraph (2), during the period of the withdrawal and reservation of land by this section, the Secretary of the Interior shall manage the land withdrawn and reserved by this section in accordance with—

(A) this Act;

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

(C) any other applicable law.

**(2) ASSIGNMENT OF MANAGEMENT TO THE SECRETARY OF THE NAVY.—**

(A) **IN GENERAL.**—The Secretary of the Interior may assign the management responsibility, in whole or in part, for the land withdrawn and reserved by this section to the Secretary of the Navy.

(B) **ACCEPTANCE.**—If the Secretary of the Navy accepts the assignment of responsibility under subparagraph (A), the Secretary of the Navy shall manage the land in accordance with—

(i) this Act;

(ii) title I of the Sikes Act (16 U.S.C. 670a et seq.); and

(iii) any other applicable law.

(3) **IMPLEMENTING AGREEMENT.**—The Secretary of the Interior and the Secretary of the Navy may enter into a written agreement—

(A) that implements the assignment of management responsibility under paragraph (2);

(B) the duration of which shall be equal to the period of the withdrawal and reservation of the land under this section; and

(C) that may be amended from time to time.

(4) **ACCESS AGREEMENT.**—The Secretary of the Interior and the Secretary of the Navy may enter into a written agreement to address access to and maintenance of Bureau of Reclamation facilities located within the boundary of the Chocolate Mountain Aerial Gunnery Range.

**(c) ACCESS.**—Notwithstanding section 103, the land withdrawn and reserved by this section (other than the land comprising the Bradshaw Trail) shall be—

(1) closed to the public and all uses (other than the uses authorized by subsection (a)(3) or under section 104); and

(2) subject to any conditions and restrictions that the Secretary of the Navy determines to be necessary to prevent any interference with the uses authorized by subsection (a)(3) or under section 104.

**(d) DURATION OF WITHDRAWAL AND RESERVATION.**—The withdrawal and reservation made by this section terminates on March 31, 2039.**SEC. 204. TWENTYNINE PALMS, CALIFORNIA.****(a) WITHDRAWAL AND RESERVATION.—**

(1) **WITHDRAWAL.**—Subject to valid existing rights and except as otherwise provided in this section, the public land (including the interests in land) de-

scribed in paragraph (2), and all other areas within the boundary of the land depicted on the map described in that paragraph that may become subject to the operation of the public land laws, is withdrawn from all forms of appropriation under the public land laws, including the mining laws, the mineral leasing laws, and the geothermal leasing laws.

(2) DESCRIPTION OF LAND.—The public land (including the interests in land) referred to in paragraph (1) is the Federal land comprising approximately 150,928 acres in San Bernardino County, California, generally depicted on the map entitled “MCAGCC 29 Palms Expansion Map”, dated November 13, 2013 (3 sheets), and filed in accordance with section 102, which are divided into the following 2 areas:

- (A) The Exclusive Military Use Area, divided into 4 areas, consisting of—
  - (i) 1 area to the west of the Marine Corps Air Ground Combat Center, consisting of approximately 91,293 acres;
  - (ii) 1 area south of the Marine Corps Air Ground Combat Center, consisting of approximately 19,704 acres; and
  - (iii) 2 other areas, each measuring approximately 300 meters square (approximately 22 acres), located inside the boundaries of the Shared Use Area described in subparagraph (B), totaling approximately 44 acres.
- (B) The Shared Use Area, consisting of approximately 40,931 acres.

(3) RESERVATION FOR SECRETARY OF THE NAVY.—The land withdrawn by paragraph (2)(A) is reserved for use by the Secretary of the Navy for the following purposes:

- (A) Sustained, combined arms, live-fire, and maneuver field training for large-scale Marine air ground task forces.
- (B) Individual and unit live-fire training ranges.
- (C) Equipment and tactics development.
- (D) Other defense-related purposes that are—
  - (i) consistent with the purposes described in subparagraphs (A) through (C); and
  - (ii) authorized under section 104.

(4) RESERVATION FOR SECRETARY OF THE INTERIOR.—The land withdrawn by paragraph (2)(B) is reserved—

- (A) for use by the Secretary of the Navy for the purposes described in paragraph (3); and
- (B) for use by the Secretary of the Interior for the following purposes:
  - (i) Public recreation—
    - (I) during any period in which the land is not being used for military training; and
    - (II) as determined to be suitable for public use.
  - (ii) Natural resources conservation.

(b) MANAGEMENT OF WITHDRAWN AND RESERVED LAND.—

(1) MANAGEMENT BY THE SECRETARY OF THE NAVY.—Except as provided in paragraph (2), during the period of withdrawal and reservation of land by this section, the Secretary of the Navy shall manage the land withdrawn and reserved by this section for the purposes described in subsection (a)(3), in accordance with—

- (A) an integrated natural resources management plan prepared and implemented under title I of the Sikes Act (16 U.S.C. 670a et seq.);
- (B) this Act;
- (C) a programmatic agreement between the Marine Corps and the California State Historic Preservation Officer regarding operation, maintenance, training, and construction at the United States Marine Air Ground Task Force Training Command, Marine Corps Air Ground Combat Center, Twentynine Palms, California; and
- (D) any other applicable law.

(2) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—

(A) IN GENERAL.—Except as provided in subparagraph (B), during the period of withdrawal and reservation of land by this section, the Secretary of the Interior shall manage the area described in subsection (a)(2)(B).

(B) EXCEPTION.—Twice a year during the period of withdrawal and reservation of land by this section, there shall be a 30-day period during which the Secretary of the Navy shall—

- (i) manage the area described in subsection (a)(2)(B); and
- (ii) exclusively use the area described in subsection (a)(2)(B) for military training purposes.

(C) APPLICABLE LAW.—The Secretary of the Interior, during the period of the management by the Secretary of the Interior under subparagraph (A),

shall manage the area described in subsection (a)(2)(B) for the purposes described in subsection (a)(4), in accordance with—

- (i) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and
  - (ii) any other applicable law.
- (D) SECRETARY OF THE NAVY.—
- (i) IN GENERAL.—The Secretary of the Navy, during the period of the management by the Secretary of the Navy under subparagraph (A), shall manage the area described in subsection (a)(2)(B) for the purposes described in subsection (a)(3), in accordance with—
    - (I) an integrated natural resources management plan prepared and implemented in accordance with title I of the Sikes Act (16 U.S.C. 670a et seq.);
    - (II) this Act;
    - (III) the programmatic agreement described in paragraph (1)(C); and
    - (IV) any other applicable law.
  - (ii) LIMITATION.—The Department of the Navy shall not fire dud-producing ordnance onto the land withdrawn by subsection (a)(2)(B).
- (3) PUBLIC ACCESS.—
- (A) IN GENERAL.—Notwithstanding section 103, the area described in subsection (a)(2)(A) shall be closed to all public access unless otherwise authorized by the Secretary of the Navy.
  - (B) PUBLIC RECREATIONAL USE.—
    - (i) IN GENERAL.—The area described in subsection (a)(2)(B) shall be open to public recreational use during the period in which the area is under the management of the Secretary of the Interior, if there is a determination by the Secretary of the Navy that the area is suitable for public use.
    - (ii) DETERMINATION.—A determination of suitability under clause (i) shall not be withheld without a specified reason.
  - (C) RESOURCE MANAGEMENT GROUP.—
    - (i) IN GENERAL.—The Secretary of the Navy and the Secretary of the Interior, by agreement, shall establish a Resource Management Group comprised of representatives of the Departments of the Interior and Navy.
    - (ii) DUTIES.—The Resource Management Group established under clause (i) shall—
      - (I) develop and implement a public outreach plan to inform the public of the land uses changes and safety restrictions affecting the land; and
      - (II) advise the Secretary of the Interior and the Secretary of the Navy with respect to the issues associated with the multiple uses of the area described in subsection (a)(2)(B).
    - (iii) MEETINGS.—The Resource Management Group established under clause (i) shall—
      - (I) meet at least once a year; and
      - (II) solicit input from relevant State agencies, private off-highway vehicle interest groups, event managers, environmental advocacy groups, and others relating to the management and facilitation of recreational use within the area described in subsection (a)(2)(B).
  - (D) MILITARY TRAINING.—
    - (i) NOT CONDITIONAL.—Military training within the area described in subsection (a)(2)(B) shall not be conditioned on, or precluded by—
      - (I) the lack of a recreation management plan or land use management plan for the area described in subsection (a)(2)(B) developed and implemented by the Secretary of the Interior; or
      - (II) any legal or administrative challenge to a recreation management plan or land use plan developed under subclause (I).
    - (ii) MANAGEMENT.—The area described in subsection (a)(2)(B) shall be managed in a manner that does not compromise the ability of the Department of the Navy to conduct military training in the area.
- (4) IMPLEMENTATION AGREEMENT.—
- (A) IN GENERAL.—The Secretary of the Interior and the Secretary of the Navy shall enter into a written agreement to implement the management responsibilities of the respective Secretaries with respect to the area described in subsection (a)(2)(B).

- (B) COMPONENTS.—The agreement entered into under subparagraph (A)—
- (i) shall be of a duration that is equal to the period of the withdrawal and reservation of land under this section;
  - (ii) may be amended from time to time;
  - (iii) may provide for the integration of the management plans required of the Secretary of the Interior and the Secretary of the Navy by this section;
  - (iv) may provide for delegation to civilian law enforcement personnel of the Department of the Navy of the authority of the Secretary of the Interior to enforce the laws relating to protection of natural and cultural resources and fish and wildlife; and
  - (v) may provide for the Secretary of the Interior and the Secretary of the Navy to share resources so as to most efficiently and effectively manage the area described in subsection (a)(2)(B).
- (5) JOHNSON VALLEY OFF-HIGHWAY VEHICLE RECREATION AREA.—
- (A) DESIGNATION.—The following areas are designated as the “Johnson Valley Off-Highway Vehicle Recreation Area”:
- (i) Approximately 45,000 acres (as depicted on the map referred to in subsection (a)(2)) of the existing Bureau of Land Management-designated Johnson Valley Off-Highway Vehicle Area that is not withdrawn and reserved for defense-related uses by this section.
  - (ii) The area described in subsection (a)(2)(B).
- (B) AUTHORIZED ACTIVITIES.—To the extent consistent with applicable Federal law (including regulations) and this section, any authorized recreation activities and use designation in effect on the date of enactment of this Act and applicable to the Johnson Valley Off-Highway Vehicle Recreation Area may continue, including casual off-highway vehicular use and recreation.
- (C) ADMINISTRATION.—The Secretary of the Interior shall administer the Johnson Valley Off-Highway Vehicle Recreation Area (other than the portion of the area described in subsection (a)(2)(B) that is being managed in accordance with the other provisions of this section), in accordance with—
- (i) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and
  - (ii) any other applicable law.
- (D) TRANSIT.—In coordination with the Secretary of the Interior, the Secretary of the Navy may authorize transit through the Johnson Valley Off-Highway Vehicle Recreation Area for defense-related purposes supporting military training (including military range management and management of exercise activities) conducted on the land withdrawn and reserved by this section.
- (c) DURATION OF WITHDRAWAL AND RESERVATION.—The withdrawal and reservation made by this section terminate on March 31, 2039.

**SEC. 205. WHITE SANDS MISSILE RANGE AND FORT BLISS.**

- (a) WITHDRAWAL.—
- (1) IN GENERAL.—Subject to valid existing rights and paragraph (3), the Federal land described in paragraph (2) is withdrawn from—
    - (A) entry, appropriation, and disposal under the public land laws;
    - (B) location, entry, and patent under the mining laws; and
    - (C) operation of the mineral leasing, mineral materials, and geothermal leasing laws.
  - (2) DESCRIPTION OF FEDERAL LAND.—The Federal land referred to in paragraph (1) consists of—
    - (A) the approximately 5,100 acres of land depicted as “Parcel 1” on the map entitled “White Sands Missile Range/Fort Bliss/BLM Land Transfer and Withdrawal” and dated April 3, 2012 (referred to in this section as the “map”);
    - (B) the approximately 37,600 acres of land depicted as “Parcel 2”, “Parcel 3”, and “Parcel 4” on the map; and
    - (C) any land or interest in land that is acquired by the United States within the boundaries of the parcels described in subparagraph (B).
  - (3) LIMITATION.—Notwithstanding paragraph (1), the land depicted as “Parcel 4” on the map is not withdrawn for purposes of the issuance of oil and gas pipeline rights-of-way.
- (b) RESERVATION.—The Federal land described in subsection (a)(2)(A) is reserved for use by the Secretary of the Army for military purposes in accordance with Public Land Order 833, dated May 27, 1952 (17 Fed. Reg. 4822).

- (c) REVOCATION OF WITHDRAWAL.—Effective on the date of enactment of this Act—
- (1) Public Land Order 833, dated May 21, 1952 (17 Fed. Reg. 4822), is revoked with respect to the approximately 2,050 acres of land generally depicted as “Parcel 2” on the map; and
  - (2) the land described in paragraph (1) shall be managed by the Secretary of the Interior as public land, in accordance with—
    - (A) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and
    - (B) any other applicable laws.

#### PURPOSE

The purpose of S. 1309 is to withdraw certain public lands for the China Lake Naval Air Weapons Station, the Limestone Hills Training Area, the Chocolate Mountain Aerial Gunnery Range, the Twentynine Palms Marine Corps Air Ground Combat Center, the White Sands Missile Range, and Fort Bliss.

#### BACKGROUND AND NEED

Many of the Nation’s military installations occupy public lands that have been withdrawn from the public domain and reserved for military purposes. Since 1958, the Engle Act (43 U.S.C. 156) has required any withdrawal of more than 5,000 acres that is reserved for military purposes to be authorized by Congress. Legislation is needed to renew expiring land withdrawals for the China Lake Naval Air Weapons Station and the Chocolate Mountain Aerial Gunnery Range, and to withdraw additional acreage for the Limestone Hills Training Area, the Twentynine Palms Marine Corps Air Ground Combat Center, the White Sands Missile Range, and Fort Bliss.

#### *China Lake*

The China Lake Naval Air Weapons Station is located in the western Mojave Desert, about 150 miles northeast of Los Angeles, California. It is the Navy’s largest single landholding, and encompasses about 1,700 square miles or 1.1 million acres, an area about the size of Rhode Island. It is divided into a North Range of 606,926 acres in Inyo, Kern, and San Bernardino counties, and a South Range of 503,510 acres, all of which lie within San Bernardino County.

The area was originally set aside in 1943 for the Navy to test rockets and ordnance during World War II. It was legislatively withdrawn and reserved for the use of the Navy as a range for testing air weapons by section 803(a) of the California Desert Protection Act of 1994, Public Law 103–433, 108 Stat. 4502. In accordance with section 806(a) of the Desert Protection Act, the withdrawal and reservation terminates 20 years after the date of enactment, on October 31, 2014. Legislation is needed to renew the withdrawal and reservation.

#### *Limestone Hills*

The Limestone Hills Training Area is located on the eastern edge of the Rocky Mountains, west of the Missouri River, southeast of Helena, in Broadwater County, Montana. The Montana Army National Guard has used the Limestone Hills area west of the Missouri River near the town of Townsend, Montana, as a training ground since 1952. It occupies about 18,644 acres of public land.

The area has been used for military training by the Montana Army National Guard since 1952. In 1984, the Bureau of Land Management issued the Montana Army National Guard a right-of-way to use the area for 30 years. The right-of-way expires on March 26, 2014. In 1993, the Bureau of Land Management informed the Montana Army National Guard that it can no longer authorize use of public lands for military purposes by a right-of-way and that the Guard would need to apply for a land withdrawal if it wished to continue using the area after the right-of-way expires. Legislation is thus needed to withdraw and reserve the land for the Montana Army National Guard to continue to use the area for military training.

#### *Chocolate Mountain*

The Chocolate Mountain Air Gunnery Range is located in the Sonoran Desert, about 100 miles east of San Diego, in Imperial and Riverside counties, California, between the Salton Sea and the Arizona border. It occupies about 495,000 acres, of which approximately 227,000 acres are withdrawn public lands.

The area was originally set aside during World War II to train air crews in aerial gunnery and bombing. It was legislatively withdrawn and reserved for the use of the Navy as a range for testing air weapons by section 803(b) of the California Desert Protection Act of 1994, Public Law 103-433, 108 Stat. 4502. In accordance with section 806(a) of the Desert Protection Act, the withdrawal and reservation terminates 20 years after the date of enactment, on October 31, 2014. Legislation is needed to renew the withdrawal and reservation.

#### *Twentynine Palms*

The Twentynine Palms Marine Corps Air Ground Combat Center is located in the western Mojave Desert, about 140 miles east of Los Angeles, California. It currently covers about 596,000 acres, or 295 square miles, in southern San Bernardino County.

The area was originally withdrawn and reserved for the Navy, for use as training center for the Marine Corps, by Public Land Order 1860 in 1959. The current area is insufficient for its intended use for live-fire training of a Marine Expeditionary Brigade. The Department of the Navy is requesting an additional 110,997 acres of public land adjacent to the existing withdrawal for exclusive military use. In addition, the Navy is requesting an additional 40,931-acre shared use area which will be open to the public for ten months out of the year when not used for military training. Legislation is needed to withdraw and reserve the additional acreage for military purposes.

#### *White Sands/Fort Bliss*

The White Sands Missile Range and Fort Bliss are the two largest military installations in the United States, together occupying nearly 5,000 square miles. White Sands Missile Range is the largest and covers almost 3,200 square miles in south central New Mexico. Fort Bliss is the second largest and covers almost 1,700 square miles in west Texas and southern New Mexico, north of El Paso. The White Sands Missile Range was originally established as the Alamogordo Bombing and Gunnery Range in 1941. It was the



site of Robert Goddard's early rocket tests in 1942 and the Manhattan Project's Trinity test of the first atomic bomb in 1945. It continues to be used for missile testing. Fort Bliss has been occupied by the Army since the 19th century. It currently houses the 1st Armored Division and is used for heavy armor training.

The Dona Ana Range, which is part of Fort Bliss, is used for tank gunnery and artillery training. Training activity on the Dona Ana Range generates noise, vibration, and dust. The Army is concerned that residential and commercial development may occur on public land adjacent to the Range. Legislation is needed to withdraw additional parcels, totaling 37,600 acres, adjacent to the Dona Ana Range to ensure that incompatible development does not occur and to establish a buffer zone for live-fire training in the Dona Ana training area.

In addition, part of the White Sands Missile Range is used by the National Aeronautics and Space Administration's White Sands Test Facility and Goddard Space Flight Center Tracking and Data Relay Satellite Systems facility, and by the National Reconnaissance Office's Aerospace Data Facility—Southwest. These operations have special security and safety requirements, but are located close to a public access area, and a number of security incidents have occurred in the area. Legislation is needed to withdraw an additional parcel of 5,100 acres to provide a one-mile stand-off area between these operations and the public access area, to improve the security of the facilities.

#### LEGISLATIVE HISTORY

S. 1309 was introduced by Senator Wyden (by request) on July 16, 2013. The Subcommittee on Public Lands, Forests, and Mining held a hearing on S. 1309 on July 30, 2013. At its business meeting on November 14, 2013, the Committee ordered S. 1309 favorably reported.

At the same time, the Committee separately ordered reported S. 1169 and S. 753, which are similar to the text of sections 202 and 205 of S. 1309, respectively.

In addition, similar legislation was subsequently incorporated as title XXIX of H.R. 2304, the National Defense Authorization Act for Fiscal Year 2014, which was enacted as Public Law 113–66 on December 26, 2013. The National Defense Authorization Act only withdraws the 5,100 acres for the White Sands Missile Range, however, and not the additional 37,600 acres for the buffer for the Dona Ana Range.

#### COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on November 14, 2013, by a voice vote of a quorum present, recommends that the Senate pass S. 1309, if amended as described herein.

#### COMMITTEE AMENDMENT

At its business meeting on November 14, 2013, the Committee adopted an amendment in the nature of a substitute. The amendment restructures the bill as a new Military Land Withdrawals Act of 2013 rather than as a new chapter 174 in title 10 of the United

States Code. The amendment redesignates the general provisions in subchapter I, section 2931 through 2943 and section 2946, as proposed to be added to title 10 by the bill as introduced, as sections 101–114 in title I of the Military Land Withdrawals Act. Sections 2944 and 2955, authorizing the Secretary of the Interior and the Secretary concerned to transfer parcels between them and authorizing the Secretary of the Interior to delegate assigned functions, respectively, are stricken. Subchapters II, III, IV, and V of chapter 174, as proposed to be added to title 10 of the United States Code by the bill as introduced, are redesignated as sections 201, 202, 203, and 204 of the Military Land Withdrawals Act. In addition, a new section 205 withdrawing and reserving public lands for the White Sands Missile Range and Fort Bliss are added by the amendment.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* provides a short title and table of contents.

*Section 2* defines key terms used in the Act.

#### TITLE I—GENERAL PROVISIONS

*Section 101(a)* states that the provisions of title I apply to each withdrawal made by title II. Subsection (b) provides that nothing in title I assigns management or real property under the jurisdiction of the Secretary of the military department concerned (“the Secretary concerned”) to the Secretary of the Interior.

*Section 102* provides for the preparation, legal effect, public availability, and cost of maps and legal descriptions of the withdrawals.

*Section 103* authorizes the Secretary concerned to restrict access to the withdrawals if necessary for military purposes, public safety, or national security.

*Section 104* authorizes the Secretary concerned to authorize the use of withdrawn lands for additional defense-related purposes.

*Section 105(a)* authorizes the Secretary of the Interior, with the consent of the Secretary concerned, to authorize the use, occupancy, or development of the withdrawn land. Paragraph (b) authorizes the Secretary concerned to authorize the use, occupancy, or development of the withdrawn land for a defense-related purpose or, subject to the consent of the Secretary of the Interior, for a non-defense purpose. Paragraph (c) provides for the form of authorizations under paragraphs (a) and (b). Paragraph (d) authorizes the Secretary of the Interior, with the consent of the Secretary concerned, to lease withdrawn lands to prevent drainage of oil and gas resources.

*Section 106* directs the Secretary concerned to take necessary precautions to prevent, and actions to suppress, brush and range fires resulting from military activities on the withdrawn lands.

*Section 107* requires the Secretary concerned to maintain, to the extent funds are available, a program of decontamination of contamination caused by defense-related uses of the withdrawn lands.

*Section 108* provides that the Act neither establishes new federal water rights on the withdrawn land nor affects existing federal water rights.

*Section 109* applies section 2671 of title 10, United States Code (relating to hunting, fishing, and trapping on military installations) to lands withdrawn by title II.

*Section 110* requires withdrawals made by title II to be extended or renewed by further legislation.

*Section 111* requires the Secretary concerned to notify the Secretary of the Interior if the Secretary concerned if a withdrawal needs to be renewed at least 5 years before the expiration of the withdrawals made by title II.

*Section 112* provides that lands withdrawn by title II shall not be open to appropriation under the public land laws, mining laws, and mineral leasing laws after the withdrawal expires unless the Secretary of the Interior, by order, restores them to the public domain and opens them for appropriation.

*Section 113* authorizes the Secretary concerned to relinquish lands withdrawn under title II.

*Section 114* holds harmless the United States and its officers and employees for liabilities resulting from nondefense-related activities on the lands withdrawn by title II.

#### TITLE II—MILITARY LAND WITHDRAWALS

*Section 201(a)* withdraws and reserves for the China Lake Naval Air Weapons Station 1,045,000 acres of public land in California for use as an air weapons range and for other purposes. Subsection (b) provides for the management the withdrawn lands. Subsection (c) terminates prior withdrawals. Subsection (d) terminates the withdrawal made by subsection (a) on March 31, 2039.

*Section 202(a)* withdraws and reserves for the Limestone Hills Training Area 18,644 acres of public land in Montana for military training and other purposes. Subsection (b) provides for the management the withdrawn lands. Subsection (c) provides special rules governing minerals management. Subsection (d) directs the Secretary of the Interior to manage grazing on the withdrawn lands. Subsection (e) terminates the withdrawal made by subsection (a) on March 31, 2039.

*Section 203(a)* withdraws and reserves for the Chocolate Mountain Aerial Gunnery Range 228,324 acres of public land in California for aerial bombing, missile testing, and other purposes. Subsection (b) provides for the management the withdrawn lands. Subsection (c) forecloses public access and other uses of the withdrawn land, notwithstanding section 103. Subsection (d) terminates the withdrawal made by subsection (a) on March 31, 2039.

*Section 204(a)* withdraws and reserves for the Twentynine Palms Marine Corps Air Ground Combat Center 151,928 acres of public land in California for training large-scale Marine air ground task forces and other purposes. Subsection (b) provides for the management the withdrawn lands. Subsection (c) terminates the withdrawal made by subsection (a) on March 31, 2039.

*Section 205* withdraws and reserves 5,100 acres of public land in New Mexico for the White Sands Missile Range and 37,600 acres of public land in New Mexico for Fort Bliss.

## COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

*S. 1309—Military Land Withdrawals Act of 2013*

S. 1309 would require the Secretary of the Interior to withdraw 1.5 million acres of federal land in the western United States from the operation of certain public land laws, including laws that authorize mineral development and grazing on such lands. Those lands would be used for military purposes. The bill also would require the Secretary of the Army to transfer administrative jurisdiction over 2,000 acres of land in New Mexico to the Department of the Interior. In addition, the bill would add 40,000 acres to the Johnson Valley Off-Highway Vehicle Area in California.

CBO estimates that implementing the legislation would have no significant impact on the federal budget. Pay-as-you-go procedures do not apply because the legislation would not affect direct spending or revenues. Nearly all of the provisions of S. 1309 were enacted in Public Law 113–66, the National Defense Authorization Act of 2014.

S. 1309 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

## REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1309.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1309, as ordered reported.

## CONGRESSIONALLY DIRECTED SPENDING

S. 1309, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

## EXECUTIVE COMMUNICATIONS

The testimony provided by the Department of the Army, the Department of the Navy, and Bureau of Land Management at the July 30, 2013, Subcommittee on Public Lands, Forests, and Mining hearing on S. 1309 follows:

STATEMENT OF THE HONORABLE KATHERINE G. HAMMACK,  
ASSISTANT SECRETARY OF THE ARMY (INSTALLATIONS,  
ENERGY, AND ENVIRONMENT)

Thank you, Chairman Manchin, Ranking Member Barrasso and other distinguished Members of the Committee for the opportunity to provide comments on S. 1169, legislation to withdraw public lands in Montana for use by the Army, and S. 753, legislation to withdraw public lands in New Mexico.

LIMESTONE HILLS TRAINING AREA WITHDRAWAL ACT OF 2013

Senate Bill 1169, the Limestone Hills Training Area Withdrawal Act, would withdraw and reserve approximately 18,644 acres of federal land that comprises the Limestone Hills Training Area (LHTA) for use by the Army, and assign primary management of the property from the Department of the Interior to the Department of the Army for a 25-year period.

The lands comprising the LHTA are public domain lands, currently under the control of the Bureau of Land Management (BLM). The legislation would enable continued training on the land by the Montana National Guard (MTNG) and other active and reserve components of the armed forces that have used the property for training purposes for several decades. In order for the Army to continue occupying the property, the land must be "withdrawn from the public domain," which can only be accomplished by an Act of Congress. Unless legislation is passed, the Army's current authority to use the property will end in March 2014.

The LHTA is operated by the MTNG and is their only large-scale live fire and maneuver training area. It is a critically important training asset for the MTNG, used by approximately 3,800 Guardsmen annually, for diverse training involving small arms, crew-served weapons, mortars, and demolition activities. The LHTA represents a realistic, open training environment within a reasonable travel distance for most Guardsmen and for equipment, which is maintained off site. This regional training asset allows us to avoid the expenditures of time, money, and fuel that would result if training had to be located elsewhere.

The LHTA is also used by the active and reserve components of the other branches of the military and is made available in some cases for use by other federal, state, and local agencies. Some 10,000 personnel from other services use the site each year. Many of those personnel are from special operations units who are preparing for rotations in Afghanistan and other forward locations. The LHTA is especially valuable because of the variety of training conducted there, which is reflected in the number and diversity of organizations that train there.

There are a number of other, non-federal activities that occur at the LHTA, and the Army is respectful of the mul-

multiple uses of the property. We are particularly proud of the collaborative relationship among the MTNG, the BLM, and the other stakeholders in the area. The Army closely coordinates with the operators of an active limestone mine within the withdrawal area. The Army firmly supports allowing existing mining claims to proceed to development in accordance with previously approved plans of operations, and we are confident this can occur. The MTNG plans meticulously to ensure that training and mining operations are held at a safe distance, and that any unexploded ordnance (UXO) is removed from the mining area. Training activities are also deconflicted with grazing operations, wildlife habitat, and use of two public roads that traverse the property. There is a proven track record of accommodating multiple uses of the property while fulfilling military training and mission needs.

The MTNG is party to an existing agreement with the BLM and with Graymont Western US, Inc., the current mine operator. This agreement specifies the procedures that the parties follow to coordinate and deconflict their respective activities. As provided for in the legislation, the Army is prepared to enter into a new agreement to update those procedures during the withdrawal period. We do not foresee any difficulty in maintaining procedures to ensure that training and readiness are maintained while accommodating the needs of other parties.

While the Army supports withdrawal of the property to enable its continued use for military training, the Army has significant concerns with certain language in the bill that would legislatively expand certain rights for mineral disposition or exploration. The Army opposes inclusion of Subsection 4(a)(3), which would provide an opportunity for certain mining claimants to amend or relocate mining claims and to reinstate expired claims. This provision would give unprecedented latitude to these claimants, which could impact land required for military training—including live fire impact areas. This would severely limit the ability of the Army to plan and conduct training on the property. The Army supports allowing existing mining claims to proceed to development in accordance with previously approved plans of operations and in accordance with applicable law and regulation. However, the Army strongly objects to this Subsection as it would grant particular mining claimants the ability to operate without regard for the withdrawal and reservation. There is no clear precedent for this provision, which stands in opposition to the normal purpose and effect of military land withdrawals. By granting unique privileges to certain mining claimants, this provision is also contrary to the normal operation of mining laws and regulations, which provide equal treatment for all claimants who are similarly situated.

The LHTA is an important asset for the readiness of the armed forces. If the land is not withdrawn, Limestone Hills will be returned to the BLM and the MTNG would

be forced to conduct its primary training events at other locations. Changing training venues could markedly increase the costs to the MTNG over current expenditures. Additionally, UXO contamination would need to be mitigated if the range were closed. Since funding for UXO removal from active ranges is controlled and prioritized differently from funding for cleanup of closed ranges, if the range is closed, Army priorities and schedules for UXO removal would be affected. We appreciate the effort to keep this important training asset open and available.

Noting the strong objection to Subsection 4(a)(3), we support S. 1169 with the exclusion of that provision. The Department of Defense has submitted a legislative proposal to the Congress for consideration that would also address the withdrawal requirements for LHTA. The proposal, introduced as S. 1309, is fully coordinated and agreed to within the Administration, and would provide urgent and necessary authority to continue training and operations.

S. 753, A BILL TO PROVIDE FOR NATIONAL SECURITY BENEFITS FOR WHITE SANDS MISSILE RANGE AND FORT BLISS

The other legislation I would like to discuss is S. 753, which involves the withdrawal of 42,700 acres of public lands in New Mexico and reservation of 5,100 of those acres for use by the Department of the Army. The bill would also transfer administration of 2,050 acres from the Army to the Department of Interior. These lands are directly adjacent to Fort Bliss and the White Sands Missile Range (WSMR). As the two largest military installations in the United States, Fort Bliss and WSMR consist of nearly 5,000 square miles of land that accommodates military training, research, development, and test and evaluation. In addition to Army test activities, WSMR hosts several other federal tenants, including NASA and the National Reconnaissance Office (NRO).

A portion of the withdrawal, totaling 37,600 acres, is adjacent to the Dona Ana tank gunnery and artillery range complex at Fort Bliss. Training in this location can generate significant noise, vibration, and dust, which can all migrate off the installation. Army analysis has determined that noise levels occurring in the area to be withdrawn are higher than is recommended for various categories of use and development. The Army is concerned that residential and commercial development may occur in that area. The legislation would ensure that incompatible development does not occur in that area. In doing so, the legislation would establish an enduring buffer for the live-fire ranges in the Dona Ana training area.

A separate 5,100 acre portion of the land that would be withdrawn by this legislation is adjacent to tenant operations at WSMR: the NASA White Sands Test Facility; the NASA Goddard Space Flight Center Tracking and Data Relay Satellite Systems facility; and the NRO Aerospace Data Facility—Southwest. These operations are co-located

and have special security and safety requirements. The land set aside for their use, while large enough to handle the mission, no longer resides in a remote location. As with many locations in the southwest, this area has seen a large increase in population in recent years. The facilities sit close to the border of a public access area, and a number of security incidents in the area have highlighted the value of having a controlled stand-off area. This legislation would reserve for military control a one-mile stand-off area between those tenant activities and the public access area, which would improve the security for these facilities.

The bill would also return administration of a small area at Fort Bliss from the Department of the Army to the Department of the Interior. The 2,050 acre parcel, previously withdrawn for military use, would be transferred to the BLM. This parcel has relatively limited training value for Fort Bliss due to its limited access from the installation. The Army does not object to the return of this land to BLM, but we offer one technical comment on the provision. Since the parcel was originally withdrawn by Public Land Order 833, a partial legislative revocation of that Public Land Order would ensure a clear interpretation of congressional intent.

The Army has worked cooperatively with the Bureau of Land Management and other neighbors and stakeholders in addressing land use issues in this area. We appreciate the cooperation and interest of all parties who support the various missions at Fort Bliss and WSMR. The Army supports this legislation, which would protect those important national security missions.

Thank you for the opportunity to discuss these topics, I look forward to any questions you have.

STATEMENT OF ROGER M. NATSUHARA, ACTING ASSISTANT SECRETARY OF NAVY (ENERGY, INSTALLATIONS, AND ENVIRONMENT)

Chairman Manchin, Ranking Member Barrasso, and members of the Subcommittee, I am pleased to appear before you today to discuss the continuing need for the Department of the Navy's land withdrawals in the Southwest.

A number of Department of Navy installations are located wholly or partially on public lands that have been withdrawn from the public domain for military purposes. Since the passage of the Engle Act, such military land withdrawals exceeding 5,000 acres must be authorized in statute. The military land withdrawals for Naval Air Weapons Station, China Lake and the Chocolate Mountain Aerial Gunnery Range expire next year and can only be renewed by an Act of Congress. China Lake supports the Navy's research, development, acquisition, testing and evaluation of cutting edge weapons systems for the warfighter. It consists of over 1.1 million acres of land of which over 90 percent are withdrawn public lands. The installation supports approximately 9000 hours of aircraft



and weapons training annually and is of critical importance in maintaining national military readiness. The Department has no viable alternative location where it can perform the testing, training and operations that are conducted at China Lake.

The aerial gunnery range located in the Chocolate Mountains consists of about 459,000 acres of which approximately 227,000 acres are withdrawn public lands. The range supports Marine Corps, Navy, and Air Force aircrew training in air combat maneuvering and tactics; airborne laser system operations; air-to-air gunnery and air-to-ground bombing, rocketry, and strafing. The range is the primary range for the Marine Corps' advanced aviation tactics school, serves east coast Marine aviation units by providing capability not available on the east coast, and is the primary "backyard" range for the 3rd Marine Aircraft Wing. Navy Special Warfare units also use this gunnery range to conduct ground combat training.

In addition to the renewal of existing military land withdrawals at China Lake and the Chocolate Mountains, the Department of Navy requests a new land withdrawal at Marine Corps Air Ground Combat Center in Twenty-nine Palms, CA to meet current and future training requirements. Although ground operations are winding down in Afghanistan, the world is still a very uncertain place, with the threat environment only growing more complex. As the Nation's premier "first responders" in conflict, the Marine Corps must remain nimble and flexible enough to engage the enemy with the appropriately sized and right mix of forces on the battlefield.

This withdrawal is required to expand the existing training environment and provide sufficient maneuver area, both land and airspace, to conduct sustained, combined arms, live-fire and maneuver field training for Marine Expeditionary Brigade (MEB)-sized Marine Air Ground Task Forces (MAGTF). A MEB—the primary forcible entry contingency response force—consists of three battalion task forces and associated command, aviation, and combat logistics support elements.

MEBs must be capable of performing a variety of missions throughout the spectrum of conflict because they will encounter complex situations containing asymmetric threats, nonlinear battlefields, and unclear delineation between combatants and noncombatants. To overcome these challenges and operate effectively, MEBs must train in a realistic setting, which the current installation configuration cannot provide. Twenty-nine Palms, established in the 1950s and sized for the weapons and tactics of the time, is simply not big enough to accommodate the way the Marine Corps must train to fight today's battles.

To accomplish this, the Department intends to purchase private and state lands adjacent to the Combat Center, pursue the establishment and modification of Special Use Airspace through the Federal Aviation Administration and request a military land withdrawal of additional public

lands. Because of the amount of acreage being requested, this land withdrawal also requires an Act of Congress. We recognize the public's keen interest in retaining access to Johnson Valley for recreational purposes. Our land withdrawal request—developed through public input—preserves public access to Johnson Valley, the area prized by the off-highway vehicle recreation enthusiasts due to its unique terrain features. Our withdrawal request represents a reasonable solution for preserving public access while providing space for required military training.

As required by the current law, the Department has worked with the Department of Interior, the Bureau of Land Management, and the Federal Aviation Administration in preparation for these withdrawals over the last several years. The Administration has submitted a legislative proposal through which these land withdrawals would be enacted as part of Fiscal Year 2014 National Defense Authorization Act.

The need to enact legislation and authorize these withdrawals is urgent. As our Department of Defense colleagues have stated in previous testimony earlier this year, the consequences of failing to enact withdrawal legislation could, in some of these instances, cause severe impacts on DOD and the military Services if we are forced to stop training and testing. In all cases, DOD has a compelling need for the withdrawn land in order to successfully conduct its testing, training, missions and operations with the capabilities and competence that it must maintain.

Our Nation's Navy and Marine Corps operate globally, which includes having the ability to project power, effect deterrence, and provide humanitarian aid whenever and wherever needed to protect the interests of the United States. To do this, however, requires forces who train as they would fight and weapons that deliver as promised. We ask for your support in giving our men and women what they need to prevail. I look forward to working with you to sustain the war fighting readiness and quality of life for the most formidable expeditionary fighting force in the world. Thank you for the opportunity to testify before you today and I welcome your questions.

STATEMENT OF NED FARQUHAR, DEPUTY ASSISTANT SECRETARY, LAND AND MINERALS MANAGEMENT, DEPARTMENT OF THE INTERIOR

Thank you for the opportunity to present testimony on three public land withdrawal bills, S. 753, S. 1169, and S. 1309. S. 753 seeks to achieve boundary solutions at White Sands Missile Range (WSMR) and Fort Bliss in New Mexico. The Administration supports S. 753, but would like to work with the Subcommittee and the sponsor on technical modifications to the bill. S. 1169, the Limestone Hills Training Area Withdrawal Act, would withdraw approximately 18,644 acres of public land for use by the Department of the Army (Army) in Montana. The Administration

supports the continued use of the lands identified in S. 1169 by the Army, but has concerns with the provision related to the location and maintenance of mining claims. We look forward to working with the Subcommittee and the sponsor on modifications to address these concerns. S. 1309, the Military Land Withdrawals Act, was introduced at the Administration's request. The bill reflects the Administration's FY 2014 National Defense Authorization Act (NDAA) legislative proposal for three public land withdrawals in California and one in Montana. The Administration urges the Senate to pass S. 1309 to support military use of the lands at Chocolate Mountain Aerial Gunnery Range (CMAGR), Naval Air Weapons Station (NAWS) China Lake, Marine Corps Air Ground Combat Center (MCAGCC) Twentynine Palms, and Limestone Hills Training Area.

#### BACKGROUND

Public lands are managed by the Department of the Interior (DOI) through the Bureau of Land Management (BLM). Public land withdrawals are formal lands actions that set aside, withhold, or reserve public land by statute or administrative order for public purposes. Withdrawals are established for a wide variety of purposes, e.g., power site reserves, military reservations, administrative sites, recreation sites, national parks, reclamation projects, and wilderness areas. Withdrawals are most often used to preserve sensitive environmental values and major Federal investments in facilities or other improvements, to support national security, and to provide for public health and safety. Withdrawals of public lands for military use require joint actions by DOI and the Department of Defense (DOD). DOD has a number of installations, training areas, and ranges that are located partially or wholly on temporarily or permanently withdrawn public lands. Many of these withdrawals support installations that are critical to the nation's ability to provide for the readiness of the Armed Forces. Approximately 16 million acres of public lands are withdrawn for military purposes.

There was no limit on the amount of public land that could be withdrawn administratively at a single location for military use until 1958 when the Engle Act (P.L. 85-337) became law. The Engle Act requires an Act of Congress to authorize military land withdrawals aggregating 5,000 acres or more for any one defense project or facility. Similarly, there was no limit on the time period of administrative withdrawals until 1976 when the Federal Land Policy and Management Act (FLPMA) (P.L. 94-579) became law. FLPMA allows the Secretary of the Interior to administratively make withdrawals aggregating 5,000 acres or more for purposes other than military use, for a period of not more than 20 years. Legislative military withdrawals have traditionally included time limits, with renewal required every 15, 20, or 25 years, depending on the terms in the legislation.

DOI appreciates the importance of military installations for the security of the Nation and supports the multiple missions of our Armed Forces. We are proud to be able to offer public lands to support military readiness, training, and testing, and are proud to be able to assist the military in meeting its mission needs. Throughout the country we have established productive partnerships and other working arrangements with the military and we intend to continue these mutually beneficial arrangements. We are especially appreciative of the military's stewardship of the withdrawn lands they manage. These arrangements have worked out well for all concerned and should continue.

The Administration believes that the traditional, periodic review that is a part of the legislative withdrawal process is vital to promoting the highest quality stewardship and management of the public lands proposed for withdrawal in these bills. This process provides opportunities for DOD and the military branches to evaluate their continued use of the lands and obtain the participation and assistance of DOI in sound management, for DOI to ensure that the lands are being managed in ways that could allow their eventual return to the public domain for broader public use, and for the Congress and the public to provide input and oversight.

S. 753, BOUNDARY SOLUTIONS AT WHITE SANDS MISSILE RANGE (WSMR) AND FORT BLISS

WSMR is a test range of approximately 2.2 million acres in parts of five counties in southern New Mexico, making it one of the largest military installations in the United States. WSMR is contiguous to Fort Bliss to the south, which is used for military training. The majority of the lands that comprise both WSMR and Fort Bliss, over 2.4 million acres, are public lands withdrawn and reserved for the use of the Army under Public Land Order (PLO) 833 and by Public Law 106-65.

S. 753 seeks to achieve boundary solutions at WSMR and Fort Bliss. First, the bill would withdraw and reserve approximately 5,100 additional acres for use by the Army at WSMR, to allow for an additional buffer area between the current public access areas and operations of several WSMR tenants, such as the NASA White Sands Test Facility and the NASA Goddard Space Flight Center Tracking and Data Relay Satellite Systems Facility. The Administration supports the goal of allowing the use of the lands by the Army. However, these lands receive significant public use, mainly in the form of hunting and livestock grazing. Because the introduced bill does not address grazing, the reduction in the existing grazing permit and removal of any authorized range improvements within these lands would be carried out in accordance with BLM's grazing regulations at 43 C.F.R. Part 4100.

S. 753 would also withdraw approximately 37,600 acres of public lands from the operation of certain public land laws, in order to establish a zone to buffer the noise, dust

and vibrations from the live fire training activities on the adjoining Dona Ana tank gunnery and artillery range complex at Fort Bliss. These lands would remain under the full management of the Department of the Interior, but they would be withdrawn from the public land laws, the mining laws, and the mineral leasing, mineral materials, and geothermal leasing laws. The Administration supports the withdrawal of these lands, consistent with a similar provision included in the Administration's FY 2014 NDAA legislative proposal.

Additionally, S. 753 would transfer to the Secretary of the Interior administrative jurisdiction over approximately 2,050 acres of public lands previously withdrawn and reserved for the Army's use under PLO 833. The lands are part of an area known as Filmore Canyon, and are adjacent on two sides to the BLM's Organ Mountains Area of Critical Environmental Concern (ACEC). Filmore Canyon is adjacent to the community of Las Cruces and includes hunting opportunities and scenic lands that are popular for year-round hiking. The BLM manages the Organ Mountains ACEC for significant scenic values and endangered wildlife species, and the ACEC contains cultural sites eligible for listing on the National Register of Historic Places. The Administration supports the return of these lands to full management by the Department of the Interior as part of a cohesive boundary solution at WSMR and Fort Bliss. We would like to work with the Subcommittee and the sponsor on technical modifications.

#### S. 1169, LIMESTONE HILLS TRAINING AREA WITHDRAWAL ACT

The Limestone Hills Training Area consists of 18,644 acres of public lands in Broadwater County, Montana that have been used for military training since the 1950s. In 1984, the BLM issued the Army a right-of-way formally permitting use of the training area for military purposes. The current right-of-way expires on March 26, 2014. The Montana Army National Guard is the primary DOD user of the training area, which is also used by reserve and active components from all branches of the military services for live fire, mounted and dismounted maneuver training, and aviation training. The withdrawal of the Limestone Hills Training area is necessary because the BLM has determined that it no longer has the authority to permit the use of the lands for military maneuvers under a right-of-way instrument.

S. 1169 would withdraw and assign general management of the training area to the Army, but would keep management of grazing and mineral resources with the BLM. This arrangement is consistent with the Administration's FY 2014 NDAA legislative proposal, and the Administration supports the goal of allowing the use of the lands by the Army under a withdrawal and reservation. However, the introduced bill contains a provision related to the location and maintenance of mining claims that is at odds

with the Administration's legislative proposal, and with which the Administration has concerns.

Section 4 of S. 1169 would legislatively expand certain rights for mineral disposition or exploration. It would set a new precedent for public land withdrawals by allowing the opportunity to cure discrepancies in the original location or the failure to maintain several hundred mining claims in the Indian Creek mine area for the duration of the withdrawal. The legislative language could be interpreted to allow mining claimants to take in new land under existing claims, which could impact land required for military training—including live fire impact areas. By granting unique privileges to certain mining claimants, this provision is contrary to the normal operation of mining laws and regulations, which provide equal treatment for all claimants who are similarly situated. The Administration looks forward to working with the Subcommittee and the sponsor on modifications to address these concerns and on more technical changes to incorporate general provisions from the FY 2014 NDAA legislative proposal.

#### S. 1309, THE MILITARY LAND WITHDRAWALS ACT

S. 1309, the Military Land Withdrawals Act, represents the Administration's legislative proposal to enact four public land withdrawals as part of the FY 2014 NDAA. This proposal was jointly prepared by DOD and DOI and represents extensive discussions and consensus building between the two agencies to achieve common goals. Presently, the two existing withdrawals for NAWS China Lake, California, and CMAGR, California, enacted in the California Military Lands Withdrawal and Overflights Act of 1994 (1994 California Act) (P.L. 103-433), will expire on October 31, 2014. Additionally, the Marine Corps seeks a new withdrawal of public lands at MCAGCC Twentynine Palms, California, to expand its training areas to support increased requirements. Finally, the Army needs to convert its use of public lands at the Montana Army National Guard, Limestone Hills Training Area, from a BLM issued right-of-way to a legislative withdrawal.

Unlike prior legislative withdrawals which were uncodified, stand-alone provisions of law, the withdrawals made under S. 1309 would be codified in a new chapter of title 10, United States Code. This would make the withdrawal process substantially more efficient for both the Executive and Legislative branches by providing commonality among the withdrawal provisions, placing them in a location that is easy to find and refer to, and, if used for future withdrawals, reducing the need to reconsider and revise "boilerplate" provisions with each proposal. Also, this codification would allow changes to withdrawal provisions without having to wait the decades that might pass before the next withdrawal took place. This new flexibility would greatly aid the ability of DOD, DOI, and Congress to soundly manage withdrawn lands.

S. 1309 includes many general provisions applicable to all four of the withdrawals. Among these are provisions for: the development of maps and legal descriptions; access restrictions; changes in use; authorizations for non-defense-related uses; management of range and brush fire prevention and suppression; on-going decontamination; water rights; hunting, fishing, and trapping; limitations on extensions and renewals; application for renewal; limitation on subsequent availability of lands for appropriation; relinquishment; interchanges and transfers of Federal lands; delegability of certain responsibilities by the Secretary of the Interior; and immunity of the United States. Most of these general provisions are similar, if not identical, to previously applied provisions in existing withdrawal statutes.

The interchanges and transfers provision is included to address boundary management issues involving both withdrawn public lands and acquired real property. For example, there is a need for boundary adjustment on the northern side of CMAGR to address uncertainties and resource management conflicts associated with the BLM-managed Bradshaw Trail. The Bradshaw Trail is popular with off-highway vehicle users, and is, in part, maintained by the local government, in coordination with the BLM. However, the trailhead and some of the trail's length currently crosses acquired real property administered by the Department of the Navy (Navy) and the Marine Corps. In the case of the expansion of MCAGCC Twentynine Palms, the Navy will likely seek to purchase various inholdings within the proposed withdrawal boundary. It could be beneficial to both departments if these inholdings could be converted, by interchange or transfer, to BLM public lands. In any case, the interchange provision is limited to acre-for-acre in order to avoid expanding the footprint of DOD lands. The transfer provision is limited to the Engle Act 5,000 acre limit (total) for any one installation over the 25-year life of the withdrawal. These provisions are designed to allow for small administrative adjustments to promote sound land management without impinging upon the role of Congress in managing Federal lands.

*Naval Air Weapons Station (NAWS) China Lake, California*

NAWS China Lake consists of over 1.1 million acres of land in Inyo, Kern, and San Bernardino Counties, California, of which 92 percent are withdrawn public lands. Under a Memorandum of Understanding between the Navy and DOI, the Commanding Officer of NAWS China Lake is responsible for managing the withdrawn land. The installation is home to approximately 4,300 DOD personnel and its primary tenant is the Naval Air Warfare Center Weapons Division. The current 20-year legislative withdrawal expires on October 31, 2014.

The 25-year renewal included in S. 1309 is modeled on the current successful management scheme instituted as

part of the 1994 California Act, which allows the DOD and DOI to combine their unique capabilities and assets for the benefit of the resources and the public by cooperatively managing natural and cultural resources, recreational resources, grazing, wild horses and burros, and geothermal resources. For example, the Navy manages the wild horses and burros on-the-ground at NAWS China Lake and the BLM manages the gathering, holding and adoption of the animals. In addition, the BLM and NAWS China Lake have a unique agreement to collaboratively produce geothermal energy at the installation, which currently produces over 150 megawatts of power.

*Chocolate Mountain Aerial Gunnery Range (CMAGR), California*

The CMAGR was established in 1941. The range consists of about 459,000 acres in Imperial and Riverside Counties, California, of which approximately 227,000 acres are withdrawn public lands under the co-management of the Marine Corps and the BLM. The remaining lands are under the administrative jurisdiction of the Department of the Navy. The two sets of lands form a checkerboard pattern of administrative jurisdiction. The Marine Corps primarily uses the lands for aviation weapons training, including precision guided munitions and Naval Special Warfare training. The current 20-year withdrawal is set to expire on October 31, 2014.

S. 1309 provides for a 25-year renewal and would allow the BLM and Navy to institute the same type of cooperative management that has been successful at China Lake. The Chocolate Mountain range is home to a number of species such as desert tortoise and big horn sheep, and contains a wide range of archeological resources.

*Marine Corps Air Ground Combat Center (MCAGCC) Twentynine Palms, California*

MCAGCC Twentynine Palms currently consists of 596,000 acres of land in San Bernardino County, California. In 1959, approximately 443,000 of those total acres were administratively withdrawn and reserved for the use of the Navy under PLO 1860. DOD is now seeking to expand this installation with the withdrawal of approximately 154,000 acres of public lands adjacent to MCAGCC. The added training lands would create a training area of sufficient size with characteristics suitable for the Marine Corps to conduct Marine Expeditionary Brigade (MEB) level training. MEB training requires sustained, combined-arms, live-fire and maneuver training of three Marine battalions with all of their associated equipment moving simultaneously toward a single objective over a 72-hour period.

S. 1309 meets the important training needs of the Marines, and, recognizing that there will be impacts to public access, also includes a unique management structure to mitigate some of the loss of access to lands popularly used



for off-highway vehicle (OHV) recreation. The bill provides for continued, year-round public access to the western third of the Johnson Valley OHV area. In addition, a shared use area of about 43,000 acres of the withdrawn lands would be available for OHV use for ten months out of the year, when there is no active military training.

*Limestone Hills Training Area, Montana*

As previously stated, the legislative withdrawal of the Limestone Hills Training area is necessary because the BLM has determined that it no longer has the authority to permit the use of the lands for military maneuvers under a right-of-way instrument. Under S. 1309, general management of the training area would be assigned to the Army, but the BLM would retain management of grazing and mineral resources for the lands withdrawn and reserved.

CONCLUSION

Thank you for inviting our testimony on S. 753, S. 1169, and S. 1309. The Department of the Interior, which has always been part of the Nation's national defense team, is committed to supporting military missions and training needs, while protecting natural resources and other traditional uses of the public lands. I would be happy to answer your questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by S. 1309 as ordered reported.

