

113TH CONGRESS
1ST SESSION

S. 1169

To withdraw and reserve certain public land in the State of Montana for the Limestone Hills Training Area, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2013

Mr. BAUCUS (for himself and Mr. TESTER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To withdraw and reserve certain public land in the State of Montana for the Limestone Hills Training Area, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Limestone Hills Train-
5 ing Area Withdrawal Act of 2013”.

1 **SEC. 2. WITHDRAWAL AND RESERVATION OF PUBLIC**
2 **LANDS FOR LIMESTONE HILLS TRAINING**
3 **AREA, MONTANA.**

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10 withdrawn from all forms of appropriation under the pub-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

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15 lands withdrawn by subsection (a) are reserved for use by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

17 (1) The conduct of training for active and re-
18 serve components of the Armed Forces.

19 (2) The construction, operation, and mainte-
20 nance of organizational support and maintenance fa-
21 cilities for component units conducting training.

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

1 (4) The conduct of training by State and local
2 law enforcement agencies, civil defense organiza-
3 tions, and public education institutions, except that
4 any such use may not interfere with military train-
5 ing activities.

6 (5) Other defense-related purposes consistent
7 with the purposes specified in the preceding para-
8 graphs.

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10 terests in lands withdrawn and reserved by this section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

15 (d) LEGAL DESCRIPTION AND MAP.—

16 (1) IN GENERAL.—As soon as practicable after
17 the date of the enactment of this Act, the Secretary
18 of the Interior shall publish in the Federal Register
19 a legal description of the public land withdrawn
20 under subsection (a) and a copy of a map depicting
21 the legal description of the withdrawn land.

22 (2) FORCE OF LAW.—The legal description and
23 map published under paragraph (1) shall have the
24 same force and effect as if included in this Act, ex-

1 (1) IN GENERAL.—Of the lands withdrawn by
2 section 2, locatable mineral activities in the approved
3 Indian Creek Mine plan of operations, MTM–78300,
4 shall be regulated pursuant to subparts 3715 and
5 3809 of title 43, Code of Federal Regulations.

6 (2) RESTRICTIONS ON SECRETARY OF THE
7 ARMY.—The Secretary of the Army shall make no
8 determination that the disposition of or exploration
9 for minerals as provided for in the approved plan of
10 operations is inconsistent with the defense-related
11 uses of the lands covered by the military land with-
12 drawal. The coordination of such disposition of and
13 exploration for minerals with defense-related uses of
14 such lands shall be determined pursuant to proce-
15 dures in an agreement provided for under subsection
16 (c).

17 (3) OPPORTUNITY TO CURE.—Notwithstanding
18 the Act of May 10, 1872 (commonly known as the
19 “General Mining Act of 1872”) (20 U.S.C. 22 et
20 seq.) and only until the Secretary of the Interior
21 publishes an opening order under section 13, the
22 Secretary of the Interior shall offer a notice and 60-
23 day opportunity to cure discrepancies in the original
24 location or the failure to maintain mining claims

1 within the land area subject to the approved plan of
2 operations.

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

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

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

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

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

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

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

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

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

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

1 (5) Provisions regarding the scheduling of
2 training activities conducted within the withdrawn
3 area that restrict mining activities and procedures
4 for deconfliction with mining operations, including
5 parameters for notification and resolution of antici-
6 pated changes to the schedule.

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

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

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

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

19 (d) EXISTING MEMORANDUM OF AGREEMENT.—
20 Until such time as the agreement required under sub-
21 section (c) becomes effective, the compatible joint use of
22 the lands withdrawn and reserved by section 2 shall be
23 governed, to the extent compatible, by the terms of the
24 2005 Memorandum of Agreement among the Montana

1 Army National Guard, Graymont Western US, Inc., and
2 the Bureau of Land Management.

3 **SEC. 5. GRAZING.**

4 (a) **ISSUANCE AND ADMINISTRATION OF PERMITS**
5 **AND LEASES.**—The issuance and administration of graz-
6 ing permits and leases, including their renewal, on the
7 public lands withdrawn by section 2 shall be managed by
8 the Secretary of the Interior consistent with all applicable
9 laws, regulations, and policies of the Secretary of the Inte-
10 rior relating to such permits and leases.

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

18 (c) **ASSIGNMENT.**—The Secretary of the Interior
19 may, with the agreement of the Secretary of the Army,
20 assign the authority to issue and to administer grazing
21 permits and leases to the Secretary of the Army, except
22 that such an assignment may not include the authority
23 to discontinue grazing on the lands withdrawn by section
24 2.

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

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

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

5 The lands withdrawn by section 2 shall remain eligi-
6 ble as entitlement land under section 6901 of title 31,
7 United States Code.

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

9 All hunting, fishing and trapping on the lands with-
10 drawn by section 2 shall be conducted in accordance with
11 section 2671 of title 10, United States Code.

12 **SEC. 9. WATER RIGHTS.**

13 (a) WATER RIGHTS.—Nothing in this Act shall be
14 construed—

15 (1) to establish a reservation in favor of the
16 United States with respect to any water or water
17 right on lands withdrawn by section 2; or

18 (2) to authorize the appropriation of water on
19 lands withdrawn by section 2, except in accordance
20 with applicable State law.

21 (b) EFFECT ON PREVIOUSLY ACQUIRED OR RE-
22 SERVED WATER RIGHTS.—This section shall not be con-
23 strued to affect any water rights acquired or reserved by
24 the United States before the date of the enactment of this
25 Act.

1 **SEC. 10. BRUSH AND RANGE FIRE PREVENTION AND SUP-**
2 **PRESSION.**

3 (a) **REQUIRED ACTIVITIES.**—The Secretary of the
4 Army shall, consistent with any applicable land manage-
5 ment plan, take necessary precautions to prevent, and ac-
6 tions to suppress, brush and range fires occurring as a
7 result of military activities on the lands withdrawn and
8 reserved by section 2, including fires outside those lands
9 that spread from the withdrawn land and which occurred
10 as a result of such activities.

11 (b) **COOPERATION OF SECRETARY OF THE INTE-**
12 **RIOR.**—At the request of the Secretary of the Army, the
13 Secretary of the Interior shall provide assistance in the
14 suppression of such fires and shall be reimbursed for such
15 assistance by the Secretary of the Army. Notwithstanding
16 section 2215 of title 10, United States Code, the Secretary
17 of the Army may transfer to the Secretary of the Interior,
18 in advance, funds to reimburse the costs of the Depart-
19 ment of the Interior in providing such assistance.

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

21 During the withdrawal and reservation authorized by
22 section 2, the Secretary of the Army shall maintain, to
23 the extent funds are available for such purpose, a program
24 of decontamination of contamination caused by defense-
25 related uses on such lands consistent with applicable Fed-
26 eral and State law. The Secretary of Defense shall include

1 a description of such decontamination activities in the an-
2 nual report required by section 2711 of title 10, United
3 States Code.

4 **SEC. 12. APPLICATION FOR RENEWAL OF A WITHDRAWAL**
5 **AND RESERVATION.**

6 (a) NOTICE.—To the extent practicable, no later than
7 five years before the termination of the withdrawal and
8 reservation made by section 2, the Secretary of the Army
9 shall notify the Secretary of the Interior whether the Sec-
10 retary of the Army will have a continuing defense-related
11 need for any of the lands withdrawn and reserved by sec-
12 tion 2 after the termination date of such withdrawal and
13 reservation. The Secretary of the Army shall provide a
14 copy of the notice to the Committee on Armed Services
15 and the Committee on Energy and Natural Resources of
16 the Senate and the Committee on Armed Services and the
17 Committee on Natural Resources of the House of Rep-
18 resentatives.

19 (b) FILING FOR EXTENSION.—If the Secretary of the
20 Army concludes that there will be a continuing defense-
21 related need for any of the withdrawn and reserved lands
22 after the termination date, the Secretary of the Army shall
23 file an application for extension of the withdrawal and res-
24 ervation of such needed lands in accordance with the regu-
25 lations and procedures of the Department of the Interior

1 applicable to the extension of withdrawals and reserva-
2 tions.

3 **SEC. 13. LIMITATION ON SUBSEQUENT AVAILABILITY OF**
4 **LANDS FOR APPROPRIATION.**

5 At the time of termination of a withdrawal and res-
6 ervation made by section 2, the previously withdrawn
7 lands shall not be open to any form of appropriation under
8 the public land laws, including the mining laws and the
9 mineral leasing and geothermal leasing laws, until the Sec-
10 retary of the Interior publishes in the Federal Register
11 an appropriate order specifying the date upon which such
12 lands shall be restored to the public domain and opened
13 for such purposes.

14 **SEC. 14. RELINQUISHMENT.**

15 (a) NOTICE OF INTENTION TO RELINQUISH.—If,
16 during the period of withdrawal and reservation under sec-
17 tion 2, the Secretary of the Army decides to relinquish
18 any or all of the lands withdrawn and reserved, the Sec-
19 retary of the Army shall file a notice of intention to relin-
20 quish with the Secretary of the Interior.

21 (b) DETERMINATION OF CONTAMINATION.—As a
22 part of the notice under subsection (a), the Secretary of
23 the Army shall include a written determination concerning
24 whether and to what extent the lands that are to be relin-

1 quished are contaminated with explosive materials or toxic
2 or hazardous substances.

3 (c) PUBLIC NOTICE.—The Secretary of the Interior
4 shall publish in the Federal Register the notice of inten-
5 tion to relinquish, including the determination concerning
6 the contaminated state of the lands.

7 (d) DECONTAMINATION OF LANDS TO BE RELIN-
8 QUISHED.—

9 (1) CONDITIONS REQUIRING DECONTAMINA-
10 TION.—If land subject of a notice of intention to re-
11 linquish pursuant to subsection (a) is contaminated,
12 and the Secretary of the Interior, in consultation
13 with the Secretary of the Army, determines that de-
14 contamination is practicable and economically fea-
15 sible (taking into consideration the potential future
16 use and value of the land) and that, upon decon-
17 tamination, the land could be opened to operation of
18 some or all of the public land laws, including the
19 mining laws and the mineral leasing and geothermal
20 leasing laws, the Secretary of the Army shall decon-
21 taminated the land to the extent that funds are ap-
22 propriated for such purpose.

23 (2) DISCRETION IF CONDITIONS NOT MET.—If
24 the Secretary of the Interior, after consultation with
25 the Secretary of the Army, concludes that decon-

1 tamination of land subject of a notice of intention to
2 relinquish pursuant to subsection (a) is not prac-
3 ticable or economically feasible, or that the land can-
4 not be decontaminated sufficiently to be opened to
5 operation of some or all of the public land laws, or
6 if Congress does not appropriate sufficient funds for
7 the decontamination of such land, the Secretary of
8 the Interior shall not be required to accept the land
9 proposed for relinquishment.

10 (3) RESPONSE.—If the Secretary of the Inte-
11 rior declines to accept the lands that have been pro-
12 posed for relinquishment because of their contami-
13 nated state, or if at the expiration of the withdrawal
14 and reservation made by section 2 the Secretary of
15 the Interior determines that some of the lands with-
16 drawn and reserved are contaminated to an extent
17 which prevents opening such contaminated lands to
18 operation of the public land laws—

19 (A) the Secretary of the Army shall take
20 appropriate steps to warn the public of the con-
21 taminated state of such lands and any risks as-
22 sociated with entry onto such lands;

23 (B) after the expiration of the withdrawal
24 and reservation, the Secretary of the Army
25 shall undertake no activities on such lands ex-

1 cept in connection with decontamination of such
2 lands; and

3 (C) the Secretary of the Army shall report
4 to the Secretary of the Interior and to the Con-
5 gress concerning the status of such lands and
6 all actions taken in furtherance of this para-
7 graph.

8 (e) REVOCATION AUTHORITY.—Upon deciding that it
9 is in the public interest to accept the lands proposed for
10 relinquishment pursuant to subsection (a), the Secretary
11 of the Interior may order the revocation of the withdrawal
12 and reservation made by section 2 as it applies to such
13 lands. The Secretary of the Interior shall publish in the
14 Federal Register the revocation order, which shall—

- 15 (1) terminate the withdrawal and reservation;
16 (2) constitute official acceptance of the lands by
17 the Secretary of the Interior; and
18 (3) state the date upon which the lands will be
19 opened to the operation of some or all of the public
20 land laws, including the mining laws.

21 (f) ACCEPTANCE BY SECRETARY OF THE INTE-
22 RIOR.—Nothing in this section shall be construed to re-
23 quire the Secretary of the Interior to accept the lands pro-
24 posed for relinquishment if the Secretary determines that
25 such lands are not suitable for return to the public do-

- 1 main. If the Secretary makes such a determination, the
- 2 Secretary shall provide notice of the determination to Con-
- 3 gress.

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