

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 1169

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

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

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

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

7 **LANDS FOR LIMESTONE HILLS TRAINING**

8 **AREA, MONTANA.**

9 (a) WITHDRAWAL.—Subject to valid existing rights
10 and except as provided in this Act, the public lands and
11 interests in lands described in subsection (c), and all other

1 areas within the boundaries of such lands as depicted on
2 the map provided for by subsection (d) that may become
3 subject to the operation of the public land laws, are hereby
4 withdrawn from all forms of appropriation under the pub-
5 lic land laws, including the mining laws and the mineral
6 leasing and geothermal leasing laws.

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9 lands withdrawn by subsection (a) are reserved for use by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

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

13 (2) The construction, operation, and mainte-
14 nance of organizational support and maintenance fa-
15 cilities for component units conducting training.

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

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

1 (5) Other defense-related purposes consistent
2 with the purposes specified in the preceding para-
3 graphs.

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5 terests in lands withdrawn and reserved by this section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

10 (d) LEGAL DESCRIPTION AND MAP.—

11 (1) IN GENERAL.—As soon as practicable after
12 the date of the enactment of this Act, the Secretary
13 of the Interior shall publish in the Federal Register
14 a legal description of the public land withdrawn
15 under subsection (a) and a copy of a map depicting
16 the legal description of the withdrawn land.

17 (2) FORCE OF LAW.—The legal description and
18 map published under paragraph (1) shall have the
19 same force and effect as if included in this Act, ex-
20 cept that the Secretary of the Interior may correct
21 errors in the legal description.

22 (3) REIMBURSEMENT OF COSTS.—The Sec-
23 retary of the Army shall reimburse the Secretary of
24 the Interior for any costs incurred by the Secretary
25 of the Interior in implementing this subsection.

1 (e) INDIAN TRIBES.—Nothing in this Act shall be
2 construed as altering any rights reserved for an Indian
3 tribe for tribal use of lands within the military land with-
4 drawal by treaty or Federal law. The Secretary of the
5 Army shall consult with any Indian tribes in the vicinity
6 of the military land withdrawal before taking action within
7 the military land withdrawal affecting tribal rights or cul-
8 tural resources protected by treaty or Federal law.

9 **SEC. 3. MANAGEMENT OF WITHDRAWN AND RESERVED**
10 **LANDS.**

11 During the period of the withdrawal and reservation
12 specified in section 6, the Secretary of the Army shall
13 manage the public lands withdrawn by section 2 for the
14 purposes specified in subsection (b) of such section, sub-
15 ject to the limitations and restrictions contained in section
16 4.

17 **SEC. 4. SPECIAL RULES GOVERNING MINERALS MANAGE-**
18 **MENT.**

19 (a) INDIAN CREEK MINE.—

20 (1) IN GENERAL.—Of the lands withdrawn by
21 section 2, locatable mineral activities in the approved
22 Indian Creek Mine plan of operations, MTM-78300,
23 shall be regulated pursuant to subparts 3715 and
24 3809 of title 43, Code of Federal Regulations.

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

12 (b) REMOVAL OF UNEXPLODED ORDNANCE ON
13 LANDS TO BE MINED.—

14 (1) REMOVAL ACTIVITIES.—Subject to the
15 availability of funds appropriated for such purpose,
16 the Secretary of the Army shall remove unexploded
17 ordnance on lands withdrawn by section 2 that are
18 subject to mining under subsection (a), consistent
19 with applicable Federal and State law. The Sec-
20 retary of the Army may engage in such removal of
21 unexploded ordnance in phases to accommodate the
22 development of the Indian Creek Mine pursuant to
23 subsection (a).

24 (2) REPORT ON REMOVAL ACTIVITIES.—The
25 Secretary of the Army shall annually submit to the

1 Secretary of the Interior a report regarding the
2 unexploded ordnance removal activities for the pre-
3 vious fiscal year performed pursuant to this sub-
4 section. The report shall include—

5 (A) the amounts of funding expended for
6 unexploded ordnance removal on the lands with-
7 drawn by section 2; and

8 (B) the identification of the lands cleared
9 of unexploded ordnance and approved for min-
10 ing activities by the Secretary of the Interior.

11 (c) IMPLEMENTATION AGREEMENT FOR MINING AC-
12 TIVITIES.—The Secretary of the Interior and the Sec-
13 retary of the Army shall enter into an agreement to imple-
14 ment this section with regard to coordination of defense-
15 related uses and mining and the ongoing removal of
16 unexploded ordnance. The duration of the agreement shall
17 be the same as the period of the withdrawal under section
18 2, but may be amended from time to time. The agreement
19 shall provide the following:

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

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

1 (3) Provisions addressing when military and
2 other authorized uses of the withdrawn lands will
3 occur.

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

7 (5) Provisions regarding the scheduling of
8 training activities conducted within the withdrawn
9 area that restrict mining activities and procedures
10 for deconfliction with mining operations, including
11 parameters for notification and resolution of antici-
12 pated changes to the schedule.

13 (6) 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 (7) 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. HUNTING, FISHING AND TRAPPING.**

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

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

9 (a) WATER RIGHTS.—Nothing in this Act shall be
10 construed—

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

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

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

22 **SEC. 9. BRUSH AND RANGE FIRE PREVENTION AND SUP-**
23 **PRESSION.**

24 (a) REQUIRED ACTIVITIES.—The Secretary of the
25 Army shall, consistent with any applicable land manage-
26 ment plan, take necessary precautions to prevent, and ac-

1 tions to suppress, brush and range fires occurring as a
2 result of military activities on the lands withdrawn and
3 reserved by section 2, including fires outside those lands
4 that spread from the withdrawn land and which occurred
5 as a result of such activities.

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

15 **SEC. 10. ON-GOING DECONTAMINATION.**

16 During the withdrawal and reservation authorized by
17 section 2, the Secretary of the Army shall maintain, to
18 the extent funds are available for such purpose, a program
19 of decontamination of contamination caused by defense-
20 related uses on such lands consistent with applicable Fed-
21 eral and State law. The Secretary of Defense shall include
22 a description of such decontamination activities in the an-
23 nual report required by section 2711 of title 10, United
24 States Code.

1 **SEC. 11. APPLICATION FOR RENEWAL OF A WITHDRAWAL**
2 **AND RESERVATION.**

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

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

1 **SEC. 12. LIMITATION ON SUBSEQUENT AVAILABILITY OF**
2 **LANDS FOR APPROPRIATION.**

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

12 **SEC. 13. RELINQUISHMENT.**

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

19 (b) DETERMINATION OF CONTAMINATION.—As a
20 part of the notice under subsection (a), the Secretary of
21 the Army shall include a written determination concerning
22 whether and to what extent the lands that are to be relin-
23 quished are contaminated with explosive materials or toxic
24 or hazardous substances.

25 (c) PUBLIC NOTICE.—The Secretary of the Interior
26 shall publish in the Federal Register the notice of inten-

1 tion to relinquish, including the determination concerning
2 the contaminated state of the lands.

3 (d) DECONTAMINATION OF LANDS TO BE RELIN-
4 QUISHED.—

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

19 (2) DISCRETION IF CONDITIONS NOT MET.—If
20 the Secretary of the Interior, after consultation with
21 the Secretary of the Army, concludes that decon-
22 tamination of land subject of a notice of intention to
23 relinquish pursuant to subsection (a) is not prac-
24 ticable or economically feasible, or that the land can-
25 not be decontaminated sufficiently to be opened to

1 operation of some or all of the public land laws, or
2 if Congress does not appropriate sufficient funds for
3 the decontamination of such land, the Secretary of
4 the Interior shall not be required to accept the land
5 proposed for relinquishment.

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

15 (A) the Secretary of the Army shall take
16 appropriate steps to warn the public of the con-
17 taminated state of such lands and any risks as-
18 sociated with entry onto such lands;

19 (B) after the expiration of the withdrawal
20 and reservation, the Secretary of the Army
21 shall undertake no activities on such lands ex-
22 cept in connection with decontamination of such
23 lands; and

24 (C) the Secretary of the Army shall report
25 to the Secretary of the Interior and to the Con-

1 gress concerning the status of such lands and
2 all actions taken in furtherance of this para-
3 graph.

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

11 (1) terminate the withdrawal and reservation;

12 (2) constitute official acceptance of the lands by
13 the Secretary of the Interior; and

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

17 (f) ACCEPTANCE BY SECRETARY OF THE INTE-
18 RIOR.—Nothing in this section shall be construed to re-
19 quire the Secretary of the Interior to accept the lands pro-
20 posed for relinquishment if the Secretary determines that
21 such lands are not suitable for return to the public do-
22 main. If the Secretary makes such a determination, the
23 Secretary shall provide notice of the determination to Con-
24 gress.