

**Statement of
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Senate Energy and Natural Resources Committee
Subcommittee on Public Lands, Forests, and Mining
S. 753, Boundary Solutions at White Sands Missile Range and Fort Bliss
S. 1169, Limestone Hills Training Area Withdrawal Act
S. 1309, Military Land Withdrawals Act**

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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 of 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.