

UTAH TEST AND TRAINING RANGE PROTECTION ACT

JUNE 3, 2004.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 2909]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2909) to ensure the continued availability of the Utah Test and Training Range to support the readiness and training needs of the Armed Forces, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Utah Test and Training Range Protection Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) The term “covered wilderness” means the wilderness area designated by this Act and wilderness study areas located near lands withdrawn for military use and beneath special use airspace critical to the support of military test and training missions at the Utah Test and Training Range, including the Deep Creek, Fish Springs, Swasey Mountain, Howell Peak, Notch Peak, King Top, Wah Wah Mountain, and Conger Mountain units designated by the Department of the Interior.

(2) The term “Tribe” means the Skull Valley Band of Goshute Indians.

(3) The term “Utah Test and Training Range” means those portions of the military operating area of the Utah Test and Training Area located solely in the State of Utah. The term includes the Dugway Proving Ground.

(4) The term “Wilderness Act” means Public Law 88-577, approved September 3, 1964 (16 U.S.C. 1131 et seq.).

SEC. 3. MILITARY OPERATIONS AND OVERFLIGHTS, UTAH TEST AND TRAINING RANGE.

(a) FINDINGS.—The Congress finds the following:

(1) The testing and development of military weapons systems and the training of military forces are critical to ensuring the national security of the United States.

(2) The Utah Test and Training Range in the State of Utah is a unique and irreplaceable national asset at the core of the test and training mission of the Department of Defense.

(3) The Cedar Mountain Wilderness Area designated by section 5, as well as several wilderness study areas, are located near lands withdrawn for military use or are beneath special use airspace critical to the support of military test and training missions at the Utah Test and Training Range.

(4) The Utah Test and Training Range and special use airspace withdrawn for military uses create unique management circumstances for the covered wilderness in this Act, and it is not the intent of Congress that passage of this Act shall be construed as establishing a precedent with respect to any future national conservation area or wilderness designation.

(5) Continued access to the special use airspace and lands that comprise the Utah Test and Training Range, under the terms and conditions described in this section, is a national security priority and is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources of such lands.

(b) OVERFLIGHTS.—Nothing in this Act or the Wilderness Act shall preclude low-level overflights and operations of military aircraft, helicopters, missiles, or unmanned aerial vehicles over the covered wilderness, including military overflights and operations that can be seen or heard within the covered wilderness.

(c) SPECIAL USE AIRSPACE AND TRAINING ROUTES.—Nothing in this Act or the Wilderness Act shall preclude the designation of new units of special use airspace, the expansion of existing units of special use airspace, or the use or establishment of military training routes over the covered wilderness.

(d) COMMUNICATIONS AND TRACKING SYSTEMS.—Nothing in this Act shall prevent any required maintenance of existing communications, instrumentation, or electronic tracking systems (or infrastructure supporting such systems) or prevent the installation of new communication, instrumentation, or other equipment necessary for effective testing and training to meet military requirements in wilderness study areas located beneath special use airspace comprising the Utah Test and Training Range, including the Deep Creek, Fish Springs, Swasey Mountain, Howell Peak, Notch Peak, King Top, Wah Wah Mountain, and Conger Mountain units designated by the Department of Interior, so long as the Secretary of the Interior, after consultation with the Secretary of the Air Force, determines that the installation and maintenance of such systems, when considered both individually and collectively, comply with section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(e) EMERGENCY ACCESS AND RESPONSE.—Nothing in this Act or the Wilderness Act shall preclude the continuation of the memorandum of understanding in existence as of the date of enactment of this Act between the Department of the Interior and the Department of the Air Force with respect to emergency access and response.

(f) PROHIBITION ON GROUND MILITARY OPERATIONS.—Except as provided in subsections (d) and (e), nothing in this section shall be construed to permit a military operation to be conducted on the ground in covered wilderness in the Utah Test and Training Range unless such ground operation is otherwise permissible under Federal law and consistent with the Wilderness Act.

SEC. 4. PLANNING PROCESS FOR FEDERAL LANDS IN UTAH TEST AND TRAINING RANGE.

(a) ANALYSIS OF MILITARY READINESS AND OPERATIONAL IMPACTS.—The Secretary of the Interior shall develop, maintain, and revise land use plans pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) for Federal lands located in the Utah Test and Training Range in consultation with the Secretary of Defense. As part of the required consultation in connection with a proposed revision of a land use plan, the Secretary of Defense shall prepare and transmit to the Secretary of the Interior an analysis of the military readiness and operational impacts of the proposed revision within six months of a request from the Secretary of Interior.

(b) LIMITATION ON RIGHTS-OF-WAYS.—The Secretary of the Interior shall not grant or issue any authorizations for rights-of-way under section 501(a)(6) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761(a)(6)) upon Federal lands identified as inventory units UTU-020-086, UTU-020-088, UTU-020-095, UTU-020-096, UTU-020-100, UTU-020-101, UTU-020-103, UTU-020-104, UTU-020-105, and UTU-020-110, as generally depicted on the map entitled “Wilderness Inventory, State of Utah” and dated August 1979, until the later of the following:

(1) The completion of a full revision of the Pony Express Area Resource Management Plan, dated January 12, 1990, by the Salt Lake Field Office of the Bureau of Land Management.

(2) January 1, 2015

SEC. 5. DESIGNATION AND MANAGEMENT OF CEDAR MOUNTAIN WILDERNESS, UTAH.

(a) **DESIGNATION.**—Certain Federal lands in Tooele County, Utah, as generally depicted on the map entitled “Cedar Mountain Wilderness” and dated March 7, 2004, are hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System to be known as the Cedar Mountain Wilderness Area.

(b) **WITHDRAWAL.**—Subject to valid existing rights, the Federal lands in the Cedar Mountain Wilderness Area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the United States mining laws, and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments to such laws.

(c) **MAP AND DESCRIPTION.**—(1) As soon as practicable after the date of the enactment of this Act, the Secretary of the Interior shall transmit a map and legal description of the Cedar Mountain Wilderness Area to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) The map and legal description shall have the same force and effect as if included in this Act, except that the Secretary of the Interior may correct clerical and typographical errors in the map and legal description.

(3) The map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management and the office of the State Director of the Bureau of Land Management in the State of Utah.

(d) **ADMINISTRATION.**—Subject to valid existing rights and this Act, the Cedar Mountain Wilderness Area shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of the enactment of this Act.

(e) **LAND ACQUISITION.**—Any lands or interest in lands within the boundaries of the Cedar Mountain Wilderness Area acquired by the United States after the date of the enactment of this Act shall be added to and administered as part of the Cedar Mountain Wilderness Area.

(f) **FISH AND WILDLIFE MANAGEMENT.**—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this Act shall be construed as affecting the jurisdiction of the State of Utah with respect to fish and wildlife on the Federal lands located in that State.

(g) **GRAZING.**—Within the Cedar Mountain Wilderness Area, the grazing of livestock, where established before the date of the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary of the Interior considers necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in the Wilderness Act, section 101(f) of Public Law 101–628 (104 Stat. 4473), and appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(h) **BUFFER ZONES.**—Congress does not intend for the designation of the Cedar Mountain Wilderness Area to lead to the creation of protective perimeters or buffer zones around the wilderness area. The fact that nonwilderness activities or uses can be seen or heard within the wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(i) **RELEASE FROM WILDERNESS STUDY AREA STATUS.**—The lands identified as the Browns Spring Cherrystem on the map entitled “Proposed Browns Spring Cherrystem” and dated May 11, 2004, are released from their status as a wilderness study area, and shall no longer be subject to the requirements of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)) pertaining to the management of wilderness study areas in a manner that does not impair the suitability of those areas for preservation of wilderness.

SEC. 6. IDENTIFICATION OF ADDITIONAL BUREAU OF LAND MANAGEMENT LAND IN UTAH AS TRUST LAND FOR SKULL VALLEY BAND OF GOSHUTES.

(a) **IDENTIFICATION OF TRUST LAND.**—The Secretary of the Interior shall identify approximately 640 additional acres of Bureau of Land Management land in the State of Utah to be administered in trust for the benefit of the Skull Valley Band of Goshutes.

(b) **SPECIAL CONSIDERATIONS.**— In identifying the land under subsection (a), the Secretary of the Interior shall—

(1) consult with leaders of the Tribe and the Governor of Utah; and

(2) ensure that the land has ready access to State or Federal highways and, in the judgment of the Secretary, provides the best opportunities for commercial economic development in closest proximity to other lands of the Tribe.

(c) **PLACEMENT IN TRUST.**—Not later than December 31, 2005, the Secretary of the Interior shall place the land identified pursuant to subsection (a) into trust for the purposes of economic development for the Tribe. At least 30 days before placing the land in trust for the Tribe, the Secretary shall publish in the Federal Register legal descriptions of the land to be placed in trust.

(d) **MANAGEMENT OF TRUST LAND.**—The land placed into trust for the Tribe under subsection (c) shall be administered in accordance with laws generally applicable to property held in trust by the United States for Indian Tribes, except that the land shall immediately revert to the administrative control of the Bureau of Land Management if the Tribe sells, or attempts to sell, any part of the land.

(e) **EFFECT.**—Nothing in this section—

(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of any person or entity (other than the United States) in or to the trust land that exists before the date on which the land is placed in trust for the Tribe under subsection (c);

(2) enlarges, impairs, or otherwise affects a right or claim of the Tribe to any land or interest in land based on Aboriginal or Indian title that exists before the date of the enactment of this Act;

(3) constitutes an express or implied reservation of water or water right for any purpose with respect to the trust land; or

(4) affects any water right of the Tribe that exists before the date of the enactment of this Act.

SEC. 7. RELATION TO OTHER LANDS AND LAWS.

(a) **OTHER LANDS.**—Nothing in this Act shall be construed to affect any Federal lands located outside of the covered wilderness or the management of such lands.

(b) **CONFORMING REPEAL.**—Section 2815 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 852) is amended by striking subsection (d).

PURPOSE OF THE BILL

The purpose of H.R. 2909 is to ensure the continued availability of the Utah Test and Training Range to support the readiness and training needs of the Armed Forces.

BACKGROUND AND NEED FOR LEGISLATION

The Utah Test and Training Range (UTTR) is the largest over-land safety land area available to the Department of Defense for aircrew training and weapons testing and requires unique accommodations. UTTR consists of airspace over vast tracts of public lands in the West Desert of Utah, and parts of eastern Nevada. It has the largest continuous area of restricted airspace from ground-level to 58,000 feet in the United States; and is the only place within the United States where terrain-following cruise missiles can be tested. It also contains vast areas of military-owned land where live fire bombings and munitions testing takes place, as well as one of the few ranges with a large “footprint” of airspace allowing for testing of new long-range stand-off weapons. However, hundreds of thousands of acres of Wilderness Study Areas (WSAs) underlie the UTTR airspace and ring the on-the-ground range, and the management restrictions of these WSAs amount to a significant potential encroachment to the UTTR. Accordingly, H.R. 2909 represents years of negotiations with environmental groups and other concerned entities to establish through statute protections for the UTTR while minimizing the impacts on military readiness and mitigating environmental concerns over management and access to these sensitive lands.

Specifically, the bill as amended by the Committee, designates certain federal lands in Tooele County, Utah, as the Cedar Mountain Wilderness Area. It withdraws such lands from all forms of

entry, appropriation, or disposal under the public land laws, including mining and mineral and geothermal leasing; however, it allows for continued fish and wildlife management and livestock grazing within such areas, as appropriate. In addition, nothing in H.R. 2909 as amended, or the Wilderness Act shall: (1) preclude low-level overflights and operations of military aircraft, missiles, or unmanned aerial vehicles over the UTTR, including the Dugway Proving Ground; (2) preclude the designation of new or expansion of existing units of special use airspace or the use or establishment of military training routes over such area; or (4) preclude the continuation of a current memorandum of understanding between the Departments of the Interior and Air Force with respect to emergency access and response within the area. The bill also calls for an area contained within the Cedar Mountain Wilderness designated as Browns Spring to be released from its current WSA status and subsequently managed for multiple uses by the Bureau of Land Management. Releasing this area will provide greater access to the spring for ongoing maintenance and upkeep.

Finally, the bill as amended, directs the Secretary of the Interior to identify approximately 640 additional acres of Bureau of Land Management land in the State of Utah to be administered in trust for the benefit of the Skull Valley Band of Goshutes. Use of the land by the tribe is limited to commercial development.

COMMITTEE ACTION

Congressman Rob Bishop (R-UT), introduced H.R. 2909 on July 25, 2003. The bill was referred to the Committee on Resources and within the Committee, the bill was referred to the Subcommittee on National Parks, Recreation and Public Lands. The Subcommittee met on October 16, 2003 to hear the bill. On May 19, 2004, the Full Resources Committee met to mark up the bill, and the Subcommittee on National Parks, Recreation and Public Lands was discharged from further consideration of the bill by unanimous consent. Congressman Rob Bishop offered an amendment in the nature of a substitute to the bill which: (1) clarified the lands designated as wilderness and the lands being released from wilderness status; and (2) directed the Secretary of the Interior to identify 640 acres of land in Utah to be held in trust for the Skull Valley Band of Goshutes. The amendment in the nature of a substitute was adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 2, 2004.

Hon. RICHARD W. POMBO,
*Chairman Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2909, the Utah Test and Training Range Protection Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

ELIZABETH M. ROBINSON
(For Douglas Holtz-Eakin).

Enclosure.

H.R. 2909—Utah Test and Training Range Protection Act

H.R. 2909 would make several changes to current law that would affect federal land in the state of Utah. Specifically, the bill would require the Secretary of the Interior to develop, in consultation with the Secretary of Defense, plans for managing federal land within the Utah Test and Training Range. In addition, the bill would establish the Cedar Mountain Wilderness on roughly 99,500 acres of federal land and release other land currently designated as a wilderness study area from that status. Finally, the bill would direct the Secretary of the Interior to select 640 acres of land administered by the Bureau of Land Management (BLM) to be taken into trust on behalf of the Skull Valley Band of Goshutes.

Based on information from BLM, CBO estimates that enacting H.R. 2909 would not significantly affect the federal budget. According to the agency, the land that would be affected by the bill cur-

rently does not generate any significant receipts, and it is unlikely to do so in the next 10 years. Hence, we estimate that altering the status of this land or changing management practices would not significantly affect offsetting receipts (a credit against direct spending). We also estimate that any increased costs for planning and management activities would be less than \$500,000 annually. Enacting H.R. 2909 would not affect federal revenues.

H.R. 2909 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. Enacting this legislation would benefit the Skull Valley Band of Goshutes by providing them with additional land. It would limit the tribe's development opportunities on existing land, however, because it would bar rights-of-way across adjacent federal land. The bill would impose no other costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Megan Carroll. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets and existing law in which no change is proposed is shown in roman):

SECTION 2815 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000

SEC. 2815. STUDY AND REPORT ON IMPACTS TO MILITARY READI- NESS OF PROPOSED LAND MANAGEMENT CHANGES ON PUBLIC LANDS IN UTAH.

(a) * * *

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[(d) EFFECT OF STUDY.—Until the Secretary of Defense submits to Congress a report containing the results of the study, the Secretary of the Interior may not proceed with the amendment of any individual resource management plan for Utah national defense lands, or any statewide environmental impact statement or statewide resource management plan amendment package for such lands, if the statewide environmental impact statement or statewide resource management plan amendment addresses wilderness characteristics or wilderness management issues affecting such lands.]