

[AMENDMENT HEADING TO BE ADDED]

OFFERED BY Mr . Bishop

Insert after section 2844, relating to renewal of Nevada Test and Training Range land withdrawal and reservation, the following new section (and redesignate subsequent section accordingly):

1 **SEC. 2845. CO-MANAGEMENT, NEW MEMORANDUM OF UN-**
2 **DERSTANDING, AND ADDITIONAL REQUIRE-**
3 **MENTS REGARDING NEVADA TEST AND**
4 **TRAINING RANGE.**

5 (a) DEFINITIONS.—In this section:

6 (1) The term “affected Indian tribe” means an
7 Indian tribe that—

8 (A) has historical connections to the land
9 withdrawn and reserved as the Nevada Test
10 and Training Range; and

11 (B) retains a presence on lands near the
12 Nevada Test and Training Range.

13 (2) The term “heavy force” means a military
14 unit with armored motorized equipment, such as
15 tanks, motorized artillery, and armored personnel
16 carriers.

1 (3) The term “large force” means a military
2 unit designated as a battalion or larger organiza-
3 tional unit.

4 (4) The term “Nevada Test and Training
5 Range” means the lands known as the Nevada Test
6 and Training Range withdrawn and reserved by sec-
7 tion 3011(b) of the Military Lands Withdrawal Act
8 of 1999 (title XXX of Public Law 106–65; 113 Stat.
9 886).

10 (5) The term “new memorandum of under-
11 standing” means the memorandum of understanding
12 required by subsection (c)(1).

13 (6) The term “overlapping lands” means the
14 lands overlapping both the Nevada Test and Train-
15 ing Range and the Desert National Wildlife Refuge.

16 (7) The term “Secretaries” means the Sec-
17 retary of the Air Force and the Secretary of the In-
18 terior acting jointly.

19 (8) The term “small force” means a military
20 force of squad, platoon, or equivalent or smaller size.

21 (b) CO-MANAGEMENT OF FEDERAL LANDS OVER-
22 LAPPING NEVADA TEST AND TRAINING RANGE AND
23 DESERT NATIONAL WILDLIFE REFUGE.—The Secretaries
24 shall co-manage the overlapping lands for both military
25 and wildlife refuge purposes.

1 (c) MEMORANDUM OF UNDERSTANDING.—

2 (1) NEW MOU REQUIRED.—Not later than two
3 years after the date of the enactment of this Act, the
4 Secretaries shall prepare a memorandum of under-
5 standing regarding the management of the overlap-
6 ping lands for the purpose of facilitating the co-man-
7 agement of the overlapping lands as required by sub-
8 section (b).

9 (2) RELATION TO EXISTING MOU.—The new
10 memorandum of understanding shall supersede the
11 memorandum of understanding referred to in sub-
12 paragraph (E) of section 3011(b)(5) of the Military
13 Lands Withdrawal Act of 1999 (title XXX of Public
14 Law 106–65; 113 Stat. 888). Clauses (ii), (iii), and
15 (iv) of such subparagraph shall apply to the new
16 memorandum of understanding in the same manner
17 as such clauses applied to the superseded memo-
18 randum of understanding .

19 (d) ELEMENTS OF NEW MEMORANDUM OF UNDER-
20 STANDING.—

21 (1) IN GENERAL.—Subject to the dispute reso-
22 lution process required by subsection (e), the new
23 memorandum of understanding shall include, at a
24 minimum, provisions to address the following:

1 (A) The proper management and protec-
2 tion of the natural and cultural resources of the
3 overlapping lands.

4 (B) The sustainable use by the public of
5 such resources to the extent consistent with ex-
6 isting laws and regulations, including applicable
7 environmental laws.

8 (C) The use of the overlapping lands for
9 the military purposes for which the lands are
10 withdrawn and reserved.

11 (2) CONSULTATION.—The Secretaries shall pre-
12 pare the new memorandum of understanding in con-
13 sultation with the following:

14 (A) The resource consultative committee.

15 (B) Affected Indian tribes.

16 (3) TRIBAL ISSUES.—The new memorandum of
17 understanding shall include provisions to address the
18 manner in which the Secretary of the Air Force will
19 accomplish the following:

20 (A) Meet the United States trust respon-
21 sibilities with respect to affected Indian tribes,
22 tribal lands, and rights reserved by treaty or
23 Federal law affected by the withdrawal and res-
24 ervation of the overlapping lands.

1 (B) Guarantee reasonable access to, and
2 use by members of affected Indian tribes of
3 high priority cultural sites throughout the Ne-
4 vada Test and Training Range, including the
5 overlapping lands, consistent with the reserva-
6 tion of the lands for military purposes.

7 (C) Protect identified cultural and archae-
8 ological sites throughout the Nevada Test and
9 Training Range, including the overlapping
10 lands, and, in the event of an inadvertent
11 ground disturbance of such a site, implement
12 appropriate response activities to once again fa-
13 cilitate historic and subsistence use of the site
14 by members of affected Indian tribes.

15 (D) Provide for timely consultation with
16 affected Indian tribes as required by paragraph
17 (2).

18 (4) DEPARTMENT OF THE INTERIOR ACCESS.—
19 The new memorandum of understanding shall en-
20 sure that the Secretary of the Interior has regularly
21 access to the overlapping lands to carry out the
22 management responsibilities of the Secretary of the
23 Interior regarding the Desert National Wildlife Ref-
24 uge, including the following:

1 (A) The installation or maintenance of
2 wildlife water development projects.

3 (B) The conduct of annual desert bighorn
4 sheep surveys.

5 (C) The management of the annual desert
6 bighorn sheep hunt in accordance with the Na-
7 tional Wildlife Refuge System Administration
8 Act of 1966 (16 U.S.C. 668dd–668ee).

9 (D) The conduct of annual biological sur-
10 veys for the Agassiz’s desert tortoise and other
11 federally protected species, State-listed and at-
12 risk species, migratory birds, golden eagle nests
13 and rare plants.

14 (E) The conduct of annual invasive species
15 surveys and treatment.

16 (F) The conduct of annual contaminant
17 surveys of soil, springs, groundwater and vege-
18 tation.

19 (G) The regular installation and mainte-
20 nance of climate monitoring systems.

21 (H) Such additional access opportunities,
22 as needed, for wildlife research, including Glob-
23 al Positioning System collaring of desert big-
24 horn sheep, bighorn sheep disease monitoring,
25 investigation of wildlife mortalities, and deploy-

1 ing, maintaining, and retrieving output from
2 wildlife camera traps.

3 (5) HUNTING, FISHING, AND TRAPPING.—The
4 new memorandum of understanding shall include
5 provisions to require that any hunting, fishing, and
6 trapping on the overlapping lands is conducted in
7 accordance with section 2671 of title 10, United
8 States Code.

9 (6) OTHER REQUIRED MATTERS.—The new
10 memorandum of understanding also shall include
11 provisions regarding the following:

12 (A) The identification of current test and
13 target impact areas and related buffer or safety
14 zones, to the extent consistent with military
15 purposes.

16 (B) The design and construction of all
17 gates, fences, and barriers in the overlapping
18 lands, to be constructed after the date of the
19 enactment of this Act, in a manner to allow
20 wildlife access, to the extent practicable and
21 consistent with military security, safety, and
22 sound wildlife management use.

23 (C) The incorporation of any existing man-
24 agement plans pertaining to the overlapping
25 lands to the extent that the Secretaries, upon

1 review of such plans, determine that incorpora-
2 tion into the new memorandum of under-
3 standing is appropriate.

4 (D) Procedures to ensure periodic reviews
5 of the new memorandum of understanding are
6 conducted by the Secretaries, and that the
7 State of Nevada, affected Indian tribes, and the
8 public are provided a meaningful opportunity to
9 comment upon any proposed substantial revi-
10 sions.

11 (e) RESOLUTION OF DISPUTES.—

12 (1) DISPUTE RESOLUTION PROCESS.—The Sec-
13 retary of the Air Force shall be responsible for the
14 resolution of any dispute concerning the new memo-
15 randum of understanding or any amendment there-
16 to.

17 (2) CONSULTATION.—The Secretary of the Air
18 Force shall make a decision under this subsection
19 only after consultation with the Secretary of the In-
20 terior, acting through the Regional Director of the
21 United States Fish and Wildlife Service, and the co-
22 ordinator of the resource consultative committee.

23 (3) GOAL.—The Secretary of the Air Force
24 shall seek to resolve disputes under this subsection
25 in a manner that provides the greatest access to the

1 overlapping lands to the public and to other Federal
2 agencies and is protective of cultural and natural re-
3 sources to the greatest extent possible consistent
4 with the purposes for which the overlapping lands
5 are reserved.

6 (f) RESOURCE CONSULTATIVE COMMITTEE.—

7 (1) ESTABLISHMENT REQUIRED.—The Secre-
8 taries shall establish, pursuant to the new memo-
9 randum of understanding, a resource consultative
10 committee comprised of representatives from inter-
11 ested Federal agencies, as well as at least one elect-
12 ed officer (or other authorized representative) from
13 the State of Nevada, and at least one elected officer
14 (or other authorized representative) from each local
15 and tribal government impacted by the Nevada Test
16 and Training Range, as may be designated at the
17 discretion of the Secretaries.

18 (2) PURPOSE.—The resource consultative com-
19 mittee shall be established solely for the purpose of
20 exchanging views, information, and advice relating
21 to the management of the natural and cultural re-
22 sources of the Nevada Test and Training Range.

23 (3) OPERATIONAL BASIS.—The resource con-
24 sultative committee shall operate in accordance with
25 the terms set forth in the new memorandum of un-

1 understanding, which shall specify the Federal agencies
2 and elected officers or representatives of State, local,
3 and tribal governments to be invited to participate.
4 The memorandum of understanding shall establish
5 procedures for creating a forum for exchanging
6 views, information, and advice relating to the man-
7 agement of natural and cultural resources on the
8 lands concerned, procedures for rotating the chair of
9 the committee, and procedures for scheduling reg-
10 ular meetings.

11 (4) COORDINATOR.—The Secretaries shall ap-
12 point an individual to serve as coordinator of the re-
13 source consultative committee. The duties of the co-
14 ordinator shall be included in the new memorandum
15 of understanding. The coordinator shall not be a
16 member of the committee.

17 (g) AUTHORIZED AND PROHIBITED ACTIVITIES.—

18 (1) AUTHORIZED ACTIVITIES.—Military activi-
19 ties on the overlapping lands are authorized for the
20 following purposes:

21 (A) Emergency response.

22 (B) Establishment and use of existing or
23 new electronic tracking and communications
24 sites.

25 (C) Establishment and use of drop zones.

1 (D) Use and maintenance of roads in ex-
2 sistence as of the date of the enactment of this
3 Act.

4 (E) Small force readiness training by Air
5 Force, Joint, or Coalition forces, including
6 training using small motorized vehicles both on-
7 and off-road, in accordance with applicable
8 interagency agreements.

9 (2) PROHIBITED ACTIVITIES.—Military activi-
10 ties on the overlapping lands are prohibited for the
11 following purposes:

12 (A) Large force or heavy force activities.

13 (B) Designation of new weapon impact
14 areas.

15 (C) Any ground disturbance activity not
16 authorized by paragraphs (1) and (2) of sub-
17 section (c).

18 (3) RULES OF CONSTRUCTION.—Nothing in
19 this subsection shall be construed to preclude—

20 (A) low-level overflights of military air-
21 craft, the designation of new units of special
22 use airspace, or the use or establishment of
23 military flight training routes over the overlap-
24 ping lands; or

1 (B) the Secretaries from entering into the
2 new memorandum of understanding or any
3 amendment thereto concerning the activities au-
4 thorized by paragraph (1).

5 (h) TRIBAL LIAISON POSITIONS.—

6 (1) ACCESS COORDINATOR.—The Secretary of
7 the Air Force shall create a tribal liaison position for
8 the Nevada Test and Training Range, to be held by
9 a member of an affected Indian tribe, who will help
10 coordinate access to cultural and archaeological sites
11 throughout the Nevada Test and Training Range
12 and accompany members of Indian tribes accessing
13 such sites.

14 (2) CULTURAL RESOURCES LIAISON.—The Sec-
15 retary of the Air Force shall create a tribal liaison
16 position for the Nevada Test and Training Range, to
17 be held by a member of an affected Indian tribe,
18 who will serve as a tribal cultural resources liaison
19 to ensure that—

20 (A) appropriate steps are being taken to
21 protect cultural and archaeological sites
22 throughout the Nevada Test and Training
23 Range; and

24 (B) the management plan for the Nevada
25 Test and Training Range is being followed.

1 (i) FISH AND WILDLIFE LIAISON.—The Secretaries
2 shall create a Fish and Wildlife Service liaison position
3 for the Nevada Test and Training Range, to be held by
4 a Fish and Wildlife Service official designated by the Di-
5 rector of the United States Fish and Wildlife Service, who
6 will serve as a liaison to ensure that—

7 (1) appropriate steps are being taken to protect
8 Fish and Wildlife Service managed resources
9 throughout the Nevada Test and Training Range;
10 and

11 (2) the management plan for the Nevada Test
12 and Training Range is being followed.

