



Congressman Pedro R. Pierluisi
Floor Statement as Prepared for Delivery
In Support of Amendment #71 to H.R. 2397
July 23, 2013

I have an amendment at the desk.

Thank you, Mr. Chairman:

This budget-neutral amendment, which I offer with Mr. Young of Alaska, would enable DOD to remove unexploded ordnance from land in Culebra, Puerto Rico, which was used as a military training range for seven decades.

In 1974, Congress enacted legislation directing the Navy to cease operations in Culebra. A provision stated that “the present bombardment area . . . shall not be utilized for any purpose that would require decontamination at the expense of the United States.”

In 1982, the federal government conveyed land in Culebra to the government of Puerto Rico, including a 400-acre parcel within the former bombardment area. The deed provided that, in accordance with the 1974 Act, the government of Puerto Rico would not hold the federal government liable for decontamination of the land.

Four years later, in 1986, Congress enacted SARA, which amended the 1980 CERCLA law. SARA states that DOD is responsible for cleaning up contamination it caused on current and former military sites, and established the Defense Environmental Restoration Program for DOD to carry out these responsibilities. That program is funded by the bill under consideration today.

SARA directed DOD to clean up former defense sites conveyed to third parties prior to 1986. These sites are eligible for federal funding, even though there were no specific authorities enabling their cleanup at the time they were decommissioned and conveyed.

Nevertheless, DOD contends that the 1974 law—and the 1982 deed that tracks it—prohibits the use of federal funds to decontaminate the 400-acre parcel on Culebra, and that these prohibitions were not superseded by SARA.

As a result of this restrictive interpretation, **Culebra is the only former defense site in the nation that DOD contends it is barred by statute from decontaminating.**

This makes no sense. The '74 Act and the '82 deed may have been consistent with federal policy at the time, since there was no legal framework in place that would have enabled the federal government to pay for the cleanup of the conveyed property. However, they are now squarely at odds with federal policy that has been in place for more than 25 years under SARA. Accordingly, there is no principled basis to treat Culebra differently than the thousands of other former defense sites conveyed out of federal hands prior to 1986, which the federal government is obligated to decontaminate.

The status quo poses a threat to human safety—since this parcel contains beaches, walkways and campgrounds visited by over 300,000 people a year. A recent DOD report found that, since 1995, there have been 70 incidents in which members of the public encountered unexploded munitions that could have caused grave harm.

In March, a young girl visiting a Culebra beach suffered burns after she picked up an artillery shell containing white phosphorous. The FBI responded and found six other munitions, which it detonated and removed. This potentially tragic incident underscores the need for congressional action.

This amendment would ensure that the 1974 Act ceases to function as an obstacle to implementation of current federal policy, as reflected in CERCLA and SARA. The amendment simply ensures that Culebra will receive the same treatment as other former defense sites in the FUDS program.

The U.S. citizens in Culebra sacrificed so our military could receive the training it needed. Congress, in turn, should take this small step to remove the barrier that is preventing DOD from addressing safety hazards that remain on the island.

Thank you, and I reserve the balance of my time.

