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SENATE

{ REPORT
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LINCOLN COUNTY LAND ACT OF 1999

SEPTEMBER 25 (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1331]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1331) to give Lincoln County, Nevada, the right to purchase at fair market value certain public land in the county, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Lincoln County Land Act of 2000”.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

- (1) Lincoln County, Nevada, encompasses an area of 10,132 square miles of the State of Nevada;
- (2) approximately 98 percent of the County is owned by the Federal Government;
- (3) the city of Mesquite, Nevada, needs land for an organized approach for expansion to the north;
- (4) citizens of the County would benefit through enhanced county services and schools from the increased private property tax base due to commercial and residential development;
- (5) the County would see improvement to the budget for the county and school services through the immediate distribution of sale receipts from the Secretary selling land through a competitive bidding process;
- (6) a cooperative approach among the Bureau of Land Management, the County, the City, and other local government entities will ensure continuing communication between those entities;
- (7) the Federal Government will be fairly compensated for the sale of public land; and

(8) the proposed Caliente Management Framework Amendment and Environmental Impact Statement for the Management of Desert Tortoise Habitat Plan identify specific public land as being suitable for disposal.

(b) PURPOSES.—The purposes of this Act are—

- (1) to provide for the orderly disposal of certain public land in the County; and
- (2) to provide for the acquisition of environmentally sensitive land in the State of Nevada.

SEC. 3. DEFINITIONS.

In this Act:

- (1) CITY.—The term “City” means the city of Mesquite, Nevada.
- (2) COUNTY.—The term “County” means Lincoln County, Nevada.
- (3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
- (4) SPECIAL ACCOUNT.—The term “special account” means the account in the Treasury of the United States established under section 5.

SEC. 4. DISPOSAL OF LAND.

(a) DISPOSAL.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, notwithstanding the land use planning and land sale requirements contained in sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1712), the Secretary, in cooperation with the County and the City, in accordance with this Act, the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and other applicable law, and subject to valid existing rights, shall dispose of the land described in subsection (b) in a competitive bidding process, at a minimum, for fair market value.

(2) TIMING.—The Secretary shall dispose of—

- (A) the land described in subsection (b)(1)(A) not later than 1 year after the date of enactment of this Act; and
- (B) the land described in subsection (b)(1)(B) not later than 5 years after the date of enactment of this Act.

(b) LAND DESCRIPTION.—

(1) IN GENERAL.—The land referred to in subsection (a) is the land depicted on the map entitled “Public Lands Identified for Disposal in Lincoln County, Nevada” and dated July 24, 2000, consisting of—

- (A) the land identified on the map for disposal within 1 year, comprising approximately 4,817 acres; and
- (B) the land identified on the map for disposal within 5 years, comprising approximately 8,683 acres.

(2) MAP.—The map described in paragraph (1) shall be available for public inspection in the Ely Field Office of the Bureau of Land Management.

(c) SEGREGATION.—Subject to valid existing rights, the land described in subsection (b) is segregated from all forms of entry and appropriation (except for competitive sale) under the public land laws, including the mining laws, and from operation of the mineral leasing and geothermal leasing laws.

(d) COMPLIANCE WITH LOCAL PLANNING AND ZONING.—The Secretary shall ensure that qualified bidders intend to comply with—

- (1) County and City zoning ordinances; and
- (2) any master plan for the area developed and approved by the County and City.

SEC. 5. DISPOSITION OF PROCEEDS.

(a) LAND SALES.—Of the gross proceeds of sales of land under this Act in a fiscal year—

- (1) 5 percent shall be paid directly to the State of Nevada for use in the general education program of the State;
- (2) 10 percent shall be returned to the County for use as determined through normal county budgeting procedures, with emphasis given to support of schools, of which no amount may be used in support of litigation against the Federal Government; and
- (3) the remainder shall be deposited in a special account in the Treasury of the United States (referred to in this section as the “special account”) for use as provided in subsection (b).

(b) AVAILABILITY OF SPECIAL ACCOUNT.—

(1) IN GENERAL.—Amounts in the special account (including amounts earned as interest under paragraph (3)) shall be available to the Secretary of the Interior, without further Act of appropriation, and shall remain available until expended, for—

(A) inventory, evaluation, protection, and management of unique archaeological resources (as defined in section 3 of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb)) in the County;

(B) development of a multispecies habitat conservation plan in the County;

(C)(i) reimbursement of costs incurred by the Nevada State Office and the Ely Field Office of the Bureau of Land Management in preparing sales under this Act, or other authorized land sales within the County, including the costs of land boundary surveys, compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), appraisals, environmental and cultural clearances, and any public notice; and

(ii) processing public land use authorizations and rights-of-way stemming from development of the conveyed land; and

(D) the cost of acquisition of environmentally sensitive land or interests in such land in the State of Nevada, with priority given to land outside Clark County.

(2) ACQUISITION FROM WILLING SELLERS.—An acquisition under paragraph (1)(D) shall be made only from a willing seller and after consultation with the State of Nevada and units of local government under the jurisdiction of which the environmentally sensitive land is located.

(c) INVESTMENT OF SPECIAL ACCOUNT.—All funds deposited as principal in the special account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities.

SEC. 6. ACQUISITIONS.

(a) DEFINITION OF ENVIRONMENTALLY SENSITIVE LAND.—In this section, the term “environmentally sensitive land” means land or an interest in land, the acquisition of which by the United States would, in the judgment of the Secretary—

(1) promote the preservation of natural, scientific, aesthetic, historical, cultural, watershed, wildlife, and other values contributing to public enjoyment and biological diversity;

(2) enhance recreational opportunities and public access;

(3) provide the opportunity to achieve better management of public land through consolidation of Federal ownership; or

(4) otherwise serve the public interest.

(b) ACQUISITIONS.—

(1) IN GENERAL.—After the consultation process has been completed in accordance with subsection (c), the Secretary may acquire with the proceeds of the special account environmentally sensitive land and interests in environmentally sensitive land. Land may not be acquired under this section without the consent of the landowner.

(2) USE OF OTHER FUNDS.—Funds made available from the special account may be used with any other funds made available under any other provision of law.

(c) CONSULTATION.—Before initiating efforts to acquire land under this subsection, the Secretary shall consult with the State of Nevada and with local government within whose jurisdiction the land is located, including appropriate planning and regulatory agencies, and with other interested persons, concerning the necessity of making the acquisition, the potential impacts on State and local government, and other appropriate aspects of the acquisition.

(d) ADMINISTRATION.—On acceptance of title by the United States, land and interests in land acquired under this section that is within the boundaries of a unit of the National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, any other system established by Act of Congress, or any national conservation or national recreation area established by Act of Congress—

(1) shall become part of the unit or area without further action by the Secretary; and

(2) shall be managed in accordance with all laws and regulations and land use plans applicable to the unit or area.

2. Amend the title so as to read: “A bill to direct the Secretary of Interior to sell certain public land in Lincoln County through a competitive process.”

PURPOSE OF THE BILL

The purpose of S. 1331 is to provide for the orderly disposal of approximately 13,500 acres of public land in Lincoln County, Nevada and to provide for the acquisition of environmentally sensitive land in the State of Nevada.

BACKGROUND AND NEED

Lincoln County encompasses an area of 10,132 square miles. Approximately 98% of the county is owned by the Federal Government. The scarcity of private land within the county severely limits property taxes revenues and the ability of local municipalities to meet the growing demand for development space. The limited tax base in Lincoln County is making it increasingly difficult to provide basic county and school services. The land being made available for disposal is situated adjacent to the rapidly growing city of Mesquite in Clark County, Nevada. This growth has created demand for housing and commercial development space. The lands made available in this legislation will meet this demand.

By making the land made available for private ownership, S. 1331 will result in Clark County residents gaining room for expansion and growth; Lincoln County gaining needed property tax revenue, and; the Federal Government receiving fair compensation for public lands. The proceeds from the purchase will be used by the Bureau of Land Management to acquire or otherwise protect environmentally sensitive lands in Nevada, defray the administrative costs that BLM will incur in processing this land sale, and develop a multi-species habitat plan for Lincoln County.

LEGISLATIVE HISTORY

S. 1331 was introduced by Senator Reid on July 1, 1999. The Subcommittee on Forests and Public Land Management held a hearing on S. 1331 on June 7, 2000. At the business meeting on September 20, 2000, the Committee on Energy and Natural Resources ordered S. 1331 favorably reported, if amended as described herein.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session in September 20, 2000, by a voice vote of a quorum present, recommends that the Senate pass S. 1331 if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 1331, the Committee adopted an amendment in the nature of a substitute. In addition to making numerous technical and clarifying changes, the amendment includes the following substantive changes.

1. Two new sections were added setting forth findings and purposes and defining key terms used in the legislation.

2. As introduced, Lincoln County, Nevada would have the exclusive right to purchase the land. The substitute amendment modified this to direct the Secretary to offer approximately 13,500 acres of public land for sale through a competitive process.

3. Language was added authorizing receipts from land sales to be used for management of archaeological resources. In addition, the amendment narrows the scope of reimbursement to Bureau of Land Management units in Nevada, and broadens the scope of items allowed for reimbursement to include land use authorizations.

SECTION-BY-SECTION ANALYSIS

Section 1 cites the short title as the “Lincoln County Land Act of 2000.”

Section 2 contains the findings and purpose.

Section 3 provides definitions used in the Act.

Section 4(a) directs the Secretary to dispose of lands identified in subsection (b) in cooperation with local units of government, in accordance with applicable laws, through a competitive bidding process, for fair market value.

Subsection (b) describes the land to be auctioned and specifies that 4,817 acres be disposed of within 1 year with an additional 8,683 acres to be disposed of within 5 years.

Subsection (c), subject to existing rights, withdraws the parcels from all forms of entry and appropriation.

Subsection (d) directs the Secretary to ensure that successful bidders comply with local units of government zoning ordinances and any approved master plans.

Section 5(a) requires 5 percent of land sale proceeds be paid to the State of Nevada for education purposes, 10 percent of the proceeds to be returned to Lincoln County, with the remainder be deposited in a special account to be used as described in subsection (b).

Subsection (b) specifies that the Secretary of the Interior may use the amounts in the special account for the management of unique archeological resources in Lincoln County; acquiring environmentally sensitive land, or interest in lands, outside of Lincoln County from willing sellers, preparing a habitat conservation plan in Lincoln County; and for costs of preparing sales under this Act.

Section (6)(a) defines environmentally sensitive lands authorized for acquisition under this Act and specifies that the Secretary must consult with the State of Nevada and units of local government before initiating efforts to acquire lands.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVVI of the standing rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1331.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1331, as ordered reported.

EXECUTIVE COMMUNICATIONS

On September 20, 2000, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 1331. These reports had not been received at the time the report on S. 1331 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Bureau of Land Management at the Subcommittee hearing on S. 1331 follows:

STATEMENT OF PETE CULP, ASSISTANT DIRECTOR, MINERALS AND REALTY BUREAU OF LAND MANAGEMENT

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to appear before you today to testify on S. 1331 Lincoln County Land Act. S. 1331 gives Lincoln County, Nevada, the exclusive right to purchase 4,817 acres of public land in the County during a ten-year period from the Bureau of Land Management (BLM).

Lincoln County, Nevada was among the last portions of the State to become settled. It is lightly populated today. The county encompasses 6.8 million acres, making it nearly the size of the entire State of Maryland. However, nearly 90 percent of the land in that county has remained in Federal ownership. The pattern of private ownership has made management of some of these extensive Federal lands difficult and uneconomical.

Through the land use planning process required under the Federal Land Policy and Management Act (FLPMA) (P.L. 94-579), the Bureau identifies lands as potentially available for disposal. However, the sale authority granted the BLM pursuant to FLPMA has not been widely used for a number of reasons, including staffing and disposition of sales receipts. The BLM has made progress toward improving management efficiency by consolidating land ownership through exchanges, purchases, and negotiating agreements with other land management agencies.

The BLM is rapidly gaining invaluable experience in the disposal of public lands. The Southern Nevada Public Land Management Act of 1998 (P.L. 105-263) (SNPLMA), has helped to refine and improve our land sales process. The SNPLMA provided for the sale of public land, but was limited to lands in the Las Vegas valley.

The 1983 Caliente Management Framework Plan (the Plan) does not recommend this land disposal. However, BLM recently reviewed this existing Plan and after consid-

ering public comment, developed a proposed Plan amendment. This Plan amendment followed BLM Planning and Nepa process. This proposed Plan amendment would allow for the disposal of 14,213.95 acres of land in Lincoln County, including the land identified in the Bill. The Plan amendment will not be completed until the Fall of 2000. Similar to this Act, S. 1892 (The Valles Caldera Preservation Act), is currently working its way through Congress and Title II of S. 1892 would allow for the same actions nationally as proposed in this Bill for Lincoln County, Nevada. The Administration sees little need for this local Bill should S. 1892 be enacted.

Other recommendations for specific amendments include:

Within Sec. 2. Sale of Public Land (a) Right To Purchase: The BLM would prefer disposal of the identified parcels of public land described in subsection (b), after consultation with Lincoln County, through a competitive sale process. This would allow sale at fair market value and parallel the approach taken in the SNPLMA.

Within Sec. 2(b) Land Description: The BLM proposed land use plan amendment identifies this Bill's 4,817 acre parcel for disposal. This Bill would leave approximately 1,385 acres of isolated, unmanageable BLM administered public lands along the Nevada-Utah state line. We believe a logical development unit should include disposal of all lands within an identified disposal area. We therefore recommend that the Bill be amended to allow BLM to dispose of the entire 14,214 acres identified in the proposed land use plan amendment. In addition, the area contains unsurveyed lands, so land acreage figures are estimates. Actual acreages will be determined upon completion of a cadastral survey.

Within Sec. 2(f) Withdrawal: We are concerned that the 10-year withdrawal period is too long to administer the land sale and the "Special Account," causing administrative difficulties and expenses. In addition, over this period of time conditions may change. In view of this uncertainty, this section should be amended to state that if commercial oil, gas or geothermal resources are discovered, the Secretary of the Interior will have an assessment conducted to determine if the lands should still be withdrawn under existing mineral laws.

Within Sec. 3. Disposition of Proceeds (a) Land Sales: Under this Bill, 5 percent of the sale proceeds will be paid to the State of Nevada, 10 percent will be returned to Lincoln County, and the remainder will be deposited in a special account in the U.S. Treasury. This again is similar to the SNPLMA. The possibility exists that the administrative costs of sales could exceed the gross sale value. If that were to happen, BLM's ability to meet the disposal needs in Lincoln County could be diminished. Under this scenario, it is unclear how the requirements for payments to the state and the county would be accomplished.

Within Sec. 3(b) Availability of Special Account—(1) in General: It is recommended that Section 3 be amended to read: “. . . reimbursement of costs incurred by the Bureau of Land Management in preparing sales under this Act, or under existing public land laws, additional land sales or exchanges . . .” The meaning or intent of “other authorized” would be clarified in this section with this wording. Also, based on our experience with the SNPLMA, we suggest the inclusion of this statement: “The reimbursement of costs incurred by BLM in implementation of this Act shall include not only the direct costs for sales or exchanges but also other BLM administrative costs. Other administrative costs include those expenditures for establishing and administering the Federal Lands Disposal Account under the Act, developing implementation procedures, and consultation with legal counsel.” Such clarifying language, applicable to the SNPLMA, was contained in Report language accompanying the FY 2000 Interior and Related Agencies Appropriations bill.

That concludes my testimony. I would be happy to respond to any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 1331 as ordered reported.

