

## Calendar No. 543

109TH CONGRESS }  
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SENATE

{ REPORT  
{ 109-300

### CITY OF YUMA IMPROVEMENT ACT

JULY 31, 2006.—Ordered to be printed

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

### R E P O R T

[To accompany S. 1529]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1529) to provide for the conveyance of certain Federal land in the city of Yuma, Arizona, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

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 “City of Yuma Improvement Act”.

#### SEC. 2. DEFINITIONS.

In this Act:

- (1) CITY.—The term “City” means the city of Yuma, Arizona.
- (2) FEDERAL LAND.—The term “Federal land” means the Bureau of Reclamation land depicted on the map and more particularly described as—
  - (A) parcels 2 and 3 of tract 1;
  - (B) a portion of parcel 110-73-019;
  - (C) the old Arizona Department of Transportation weigh station;
  - (D) portions of blocks 52, 53, 54, and 55;
  - (E) the future drying bed location; and
  - (F) the future Arizona Welcome Center.
- (3) MAP.—The term “map” means the map entitled “City of Yuma Proposed Property Ownership” and dated July 25, 2005.
- (4) NON-FEDERAL LAND.—The term “non-Federal land” means the non-Federal land depicted on the map and generally known as the “Railroad Parcels”.
- (5) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

#### SEC. 3. CONVEYANCE OF FEDERAL LAND AND NON-FEDERAL LAND.

(a) IN GENERAL.—Subject to valid existing rights, easements, and rights-of-way, and in accordance with this Act, the Secretary shall convey all right, title, and interest of the United States in and to the Federal land to the City in exchange for the non-Federal land.

## (b) TITLE TO NON-FEDERAL LAND.—

(1) IN GENERAL.—On receipt of a deed conveying to the United States fee simple title to the non-Federal land that meets the requirements under paragraph (2), the Secretary shall record a deed from the United States that conveys to the City fee simple title to the Federal land.

(2) REQUIREMENTS.—Title to the non-Federal land shall—

(A) conform with the regulations and title approval standards of the Attorney General that are applicable to Federal land acquisitions; and

(B) include all valid existing rights, easements, and rights-of-way.

(c) ADMINISTRATION OF ACQUIRED LAND.—The Secretary, acting through the Commissioner of Reclamation, shall administer the non-Federal land acquired by the Secretary.

(d) RELEASE FROM LIABILITY.—Effective on the date of conveyance to the City of the parcel of Federal land under subsection (a), the United States shall not be liable for damages arising out of any act, omission, or occurrence relating to the Federal land and facilities conveyed, but shall continue to be liable for damages caused by acts of negligence committed by the United States or by any employee or agent of the United States before the date of conveyance, consistent with chapter 171 of title 28, United States Code.

(e) ADMINISTRATIVE COSTS.—All administrative costs relating to the conveyance of the Federal land and non-Federal land under subsection (a) shall be paid by the City to the United States.

## (f) VALUATION, APPRAISALS, AND EQUALIZATION.—

(1) IN GENERAL.—The value of the Federal and the non-Federal land—

(A) shall be equal, as determined by appraisals conducted in accordance with paragraph (2); or

(B) if not equal, shall be equalized in accordance with paragraph (3).

## (2) APPRAISALS.—

(A) IN GENERAL.—The Federal land and non-Federal land shall be appraised by an independent appraiser selected by the Secretary.

(B) REQUIREMENTS.—An appraisal conducted under subparagraph (A) shall be conducted in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisition; and

(ii) the Uniform Standards of Professional Appraisal Practice.

## (C) EQUALIZATION OF VALUES.—

(i) IN GENERAL.—If the value of the Federal land and the non-Federal land is not equal, the value may be equalized by—

(I) the Secretary making a cash equalization payment to the City;

(II) the City making a cash equalization payment to the Secretary; or

(III) reducing the acreage of the Federal land or non-Federal land, as appropriate.

(ii) DISPOSITION OF PROCEEDS.—Any cash equalization payments received by the Secretary under clause (i)(II) shall be deposited in the general fund of the Treasury.

**SEC. 4. CONVEYANCE OF UNITED STATES FISH AND WILD-LIFE SERVICE LAND TO THE CITY OF YUMA.**

(a) IN GENERAL.—Subject to valid existing rights, the Secretary shall convey to the City by quitclaim deed, all right, title, and interest of the United States in and to the parcel of United States Fish and Wildlife Service land located at 356 West First Street, Yuma, Arizona.

(b) CONSIDERATION.—In exchange for the conveyance of land under subsection (a), the City shall pay to the Secretary consideration in an amount that reflects the fair market value of the land conveyed to the City under that subsection, as determined by an appraisal prepared in accordance with—

(1) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(2) the Uniform Standards of Professional Appraisal Practice.

(c) ADMINISTRATIVE COSTS.—Any administrative costs relating to the conveyance of land under subsection (a) shall be paid by the City to the United States.

(d) DISPOSITION OF PROCEEDS.—The Secretary shall deposit the proceeds of the sale of land under subsection (a) in the general fund of the Treasury.

**PURPOSE OF THE MEASURE**

S. 1529 would authorize the Secretary of the Interior to convey certain Federal land in the city of Yuma, Arizona.

## BACKGROUND AND NEED

The city of Yuma, Arizona (hereinafter “city”) seeks title to six small parcels of land currently held by the United States Bureau of Reclamation (hereinafter “Reclamation”) in order to complete the redevelopment of the riverfront in downtown Yuma. Yuma’s redevelopment effort includes a welcome center, a new hotel, a conference center, and mixed-use retail stores. According to Reclamation, the parcels at issue are difficult to manage because they are not contiguous. Also, while three of the Federal parcels had been used by the Yuma County Water Users Associations for ditch rider residences, the Association wants to update and move the housing and therefore has agreed to their conveyance.

In exchange for the Reclamation lands, the city will convey non-Federal lands to Reclamation. This conveyance includes title to three railroad parcels on which a Reclamation rail line exists for deliveries to the Bureau’s Yuma Desalting Plant. This conveyance will clear title to the railroad that has been clouded for several years. Because Reclamation lacks authority to effectuate this land exchange, congressional authorization is needed to complete the transfer.

Additionally, the city seeks title to a parcel of land to which the United States Fish and Wildlife Service currently holds title. The city plans to construct the Kofa National Wildlife Refuge Headquarters and Visitors Center on the parcel.

## LEGISLATIVE HISTORY

S. 1529 was introduced on July 28, 2005, by Senator Kyl for himself and Senator McCain and referred to the Committee on Energy and Natural Resources. The Subcommittee on Water and Power held a hearing on S. 1529 on October 6, 2005. S. Hrg. 109–273. At the business meeting on May 24, 2006, the Committee on Energy and Natural Resources ordered S. 1529 favorably reported with an amendment in the nature of a substitute.

## COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on May 24, 2006, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 1529, if amended as described herein.

## COMMITTEE AMENDMENT

During consideration of S. 1529, the Committee adopted an amendment in the nature of a substitute to address concerns raised during the committee hearing and concerns by Senator Kyl.

The first change provides that the Reclamation land and city land exchanged under section 3 shall be of equal value. If the parcels are not of equal value according to required appraisals, either the city or the Secretary of the Interior shall reimburse the other for any difference in appraised value. The second change provides that any sums paid to the Secretary by the city shall be deposited into the general fund of the Treasury. The third change provides that the Secretary of Interior shall convey to the City the Fish and Wildlife Service land located at 356 West First Street, Yuma, Arizona for fair market value. The fourth change provides that any

proceeds paid to the Secretary of the Interior by the City shall be deposited into the general fund of the Treasury.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* provides the short title, the “City of Yuma Improvement Act.”

*Section 2* defines the terms used in the Act.

*Section 3* subsection (a) directs the Secretary of the Interior to exchange Reclamation land with city land.

Subsection (b) provides that, upon receipt of a deed conveying fee simple title of city land to the United States, the Secretary of the Interior shall record a deed from the United States that conveys to the city fee simple title to the Reclamation land to the city.

Subsection (c) provides that the Secretary of the Interior, acting through the Commissioner of Reclamation, shall administer the City land acquired by the Secretary.

Subsection (d) provides that, effective on the date of conveyance to the city of the parcel of Reclamation land under subsection (a), the Secretary shall not be held liable for any occurrence relating to the Federal land except as provided for under chapter 171 of title 28, United States Code.

Subsection (e) provides that the city shall be responsible for the administrative costs associated with the land exchange under this section.

Subsection (f) provides that the Reclamation land and city land exchanged under section 3 shall be of equal value. If the parcels are not of equal value as determined by an appraisal, either the city or the Secretary of the Interior shall reimburse the other for any difference in appraised value. Any sums paid to the Secretary by the city shall be deposited into the general fund of the Treasury.

*Section 4*, subsection (a) provides that the Secretary of the Interior shall convey to the city all right, title and interest of the United States of the United States Fish and Wildlife land located at 356 West First Street in the city.

Subsection (b) provides that the conveyance of land to the city shall be for fair market value.

Subsection (c) provides that the administrative costs associated with the conveyance shall be paid by the city.

Subsection (d) provides that proceeds from the sale shall be deposited in the general fund of the Treasury.

#### COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

##### *S. 1529—City of Yuma Improvement Act*

Under S. 1529, The Bureau of Reclamation would transfer six parcels of land to the city of Yuma, Arizona, in exchange for land owned by the city. Under the bill, if the values of the properties to be exchanged are not equal, the parties could either adjust the number of acres or make cash payments to equalize those values. In addition, the legislation would require the U.S. Fish and Wildlife Service (USFWS) to convey one parcel of land to the city at fair market value. CBO estimates that this conveyance would result in

additional offsetting receipts (a credit against direct spending) to the federal government of about \$500,000 in fiscal year 2007.

Based on information from the bureau, CBO estimates that the exchange of six parcels (about 7 acres) would have no significant impact on the federal budget. According to the agency, the federal land to be exchanged currently generates no significant collections from natural resource sales or leases and is not expected to do so over the next 10 years; therefore, we estimate that conveying it would not affect offsetting receipts (a credit against direct spending). Based on information regarding the value of the properties involved in the proposed exchange, we estimate that any cash equalization payments would be minimal. Based on information about the value of the USFWS land to be sold, CBO estimates that the sale of the property at fair market value would increase offsetting receipts in fiscal year 2007 by about \$500,000.

S. 1529 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. The bill would benefit the city of Yuma, Arizona, by authorizing the exchange of federal land for land owned by the city. Any costs the city might incur would be incurred voluntarily.

The CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI 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. 1529. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant 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. 1529.

#### EXECUTIVE COMMUNICATIONS

The testimony provided by the United States Geological Survey at the Subcommittee hearing on S. 1529 in the 109th Congress follows:

#### STATEMENT OF WILLIAM E. RINNE, DEPUTY COMMISSIONER OF THE BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Madam Chairman, I am William E. Rinne, Deputy Commissioner of the Bureau of Reclamation. I am pleased to provide the Administration's views of S. 1529, which provides for the transfer of certain Federal lands managed by the Bureau of Reclamation to the City of Yuma, Arizona, and the receipt by the Bureau of Reclamation of clear title to certain parcels of land, known as the "railroad parcels," which are used by Reclamation for its Yuma Desalting Plant. The Department supports the intent of this legislation, but we believe that this can be accomplished through

existing land transfer processes provided by the General Service Administration's authorities.

There would be benefits to both Reclamation and the city of Yuma from this land transfer. Reclamation will obtain clear title to portions of a railroad right-of-way required for the delivery of chemicals to the Yuma Desalting Plant managed by Reclamation's Yuma Area Office. The title to the rail property has been clouded for many years due to its sale by Southern Pacific Transportation Company to both the city of Yuma and Reclamation.

In exchange for giving up its claim to the railroad parcels, this legislation provides that the city of Yuma would obtain title to seven parcels currently owned by Reclamation located within the city. These parcels total approximately 7 acres but are scattered throughout the city. The parcels slated for transfer are difficult for Reclamation to manage and are not usable for project purposes. Previously, three of the Federal parcels were used by the Yuma County Water Users Association for ditch rider residences. These residences have been moved to more convenient locations, and Reclamation has no further need for these properties or any of the other parcels listed in this exchange. The city of Yuma will use these properties in order to further the city's development plans.

As a matter of policy, we support working with states and local governments to resolve land tenure and land transfer issues that advance worthwhile public policy objectives, and we have no objection to the transfer of these specific lands from Reclamation ownership. While none of the parcels to be exchanged has been appraised, Reclamation's rough estimate is that the parcels being conveyed to the city are not worth more than \$500,000. We view this as a directed exchange by Congress, not an equal value exchange.

We think that the end goal of transferring the lands in question to the city is laudable, but we note that this legislation provides for a directed exchange that avoids the normal procedures followed for Federal land disposal. The value to the United States of clear title to the railroad parcels is uncertain. The lack of established value from the railroad parcels does not compel opposition to the proposed transfer, however, because in the absence of legislation, an administrative process exists through which the General Services Administration (GSA) can accomplish the intended purpose of this legislation. The Administrator of GSA can make government-owned land available at no cost to cities such as Yuma for a variety of public use purposes, such as public health, public education, for historic monuments, airports, parks and recreation, emergency rescue, fire fighting, law enforcement, and many other public uses. We could support this legislation if it included a role for GSA in ensuring that the lands to be transferred meet GSA's criteria for transfer to the city without compensation to the Federal government.

This concludes my statement. I am pleased to answer 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. 1529, as ordered reported.

