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NEVADA CANCER INSTITUTE EXPANSION ACT

JUNE 16, 2008.—Ordered to be printed

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

R E P O R T

[To accompany H.R. 1311]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 1311) to provide for the conveyance of the Alta-Hualapai Site to the Nevada Cancer Institute, and for other purposes, having considered the same, reports favorably thereon without amendment and recommend that the Act do pass.

PURPOSE

The purpose of H.R. 1311 is to direct the Secretary of the Interior to convey approximately 25 acres of public land in Las Vegas, Nevada, to the Nevada Cancer Institute for use as a non-profit cancer institute.

BACKGROUND AND NEED

The 80-acre Alta-Hualapai site in Las Vegas is part of a 320-acre parcel that was patented to the City of Las Vegas, Nevada (City) by the Bureau of Land Management (BLM) in 1963 under the Recreation and Public Purposes Act (R&PP) (43 U.S.C. 869 et seq.) for "recreational area site purposes only." Much of the parcel was developed into a golf course. However, the Alta-Hualapai site remains mostly undeveloped. The City has proposed using this site to develop the Nevada Cancer Institute and campus.

R&PP patents, such as the one held by the City, contain provisions requiring title to revert to the Secretary of the Interior if the lands are devoted to a use other than that for which the lands were conveyed, or if the patentee fails to follow the development plans which were presented as part of the original application.

H.R. 1311 requires the City to first relinquish the Alta-Hualapai site to the Secretary of the Interior. The Secretary would then be directed to convey approximately 25 acres, for no consideration, to the Nevada Cancer Institute for development of the Institute, and to the City for development of ancillary medical facilities consistent with the mission of the Institute.

LEGISLATIVE HISTORY

H.R. 1311, sponsored by Representative Berkley, passed the House of Representatives by a vote of 377–0 on March 4, 2008. A companion measure, S. 758, was introduced by Senators Ensign and Reid on March 5, 2007. The Subcommittee on Public Lands and Forests held a hearing on both bills on April 15, 2008. At its business meeting on May 7, 2008, the Committee on Energy and Natural Resources ordered H.R. 1311 favorably reported, without amendment.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on May 7, 2008, by a voice vote of a quorum present, recommends that the Senate pass H.R. 1311.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title, the "Nevada Cancer Institute Expansion Act".

Section 2 defines key terms used in the bill.

Section 3(a) directs the City of Las Vegas, Nevada, to prepare a survey and legal description of the Alta-Hualapai site in accordance with Bureau of Land Management standards.

Subsection (b) authorizes the Secretary to accept the relinquishment by the City of all or part of the Alta-Haulapai site.

Subsection (c) directs the Secretary, upon relinquishment of the site, and not later than 180 days after a request from the Nevada Cancer Institute, to convey the portion of the site (subject to valid existing rights) that is necessary for the development of a non-profit cancer institute.

Subsection (d) directs the Secretary, not later than 180 days after a request from the City, to convey any remaining portion of the Alta-Hualapai site necessary for ancillary medical or non-profit use compatible with the mission of the Nevada Cancer Institute.

Subsection (e) requires that any conveyance to the City shall be for no less than fair market value, with the proceeds to be distributed in accordance with Public Law 105–263, the Southern Nevada Public Lands Management Act.

Subsection (f) provides that the Secretary may require the recipient to bear any costs associated with the transfer of title or any necessary land surveys.

Subsection (g) states that the Secretary shall submit a report to the Committee and the House Committee on Natural Resources on all transactions conducted under Public Law 105–263. The report is to be submitted not later than 180 days after the date of enactment of this Act.

Section 4 authorizes the Secretary to grant rights-of-way to the Las Vegas Valley Water District across a portion of the Alta-Hualapai site for a flood control project and water pumping facility.

Section 5 provides that any property conveyed under this act which is not used for the purposes specified in this Act may revert to the United States, at the discretion of the Secretary.

COST AND BUDGETARY CONSIDERATIONS

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

H.R. 1311—Nevada Cancer Institute Expansion Act

H.R. 1311 would authorize the Bureau of Land Management (BLM) to accept 80 acres of land from the city of Las Vegas, Nevada, and convey that land to the Nevada Cancer Institute to expand the institute. Some of the property may be returned to the city for related purposes. If the city does not use all of the land conveyed for the purposes described in the bill, it would be allowed to sell the unused portion and split the proceeds with BLM.

CBO estimates that implementing H.R. 1311 would have a negligible impact on the federal budget. The recipients of the land would pay for the cost of the conveyance. Further, if any land is sold by the city, those proceeds would be divided between Nevada and BLM and BLM's portion would be available for expenditure without appropriation in accordance with the Southern Nevada Public Land Management Act of 1998. Enacting the legislation would not affect revenues.

H.R. 1311 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On February 27, 2008, CBO transmitted a cost estimate for H.R. 1311, the Nevada Cancer Institute Expansion Act, as ordered reported by the House Committee on Natural Resources on February 13, 2008. The versions of the legislation are similar, and the estimated costs of enacting them are the same.

The CBO staff contact for this estimate is Tyler Kruzich. This estimate was approved by Theresa Gullo, 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 H.R. 1311. The Act 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 H.R. 1311, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 1311, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined by rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Bureau of Land Management at the April 15, 2008 hearing on H.R. 1311 follows:

STATEMENT OF ELENA DALY, DIRECTOR, NATIONAL LANDSCAPE CONSERVATION SYSTEM, BUREAU OF LAND MANAGEMENT

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to testify on S. 758, the Nevada Cancer Institute Expansion Act. H.R. 1311, the companion bill to S. 758, passed the House on March 4, 2008 and, as requested by the Committee, I'll also address H.R. 1311, as amended. While we support the goals of S. 758 and H.R. 1311, as amended, we cannot support the bills without modifications.

S. 758

S. 758 would convey without consideration approximately 80 acres of public lands (the "Alta-Hualapai" site) to the City of Las Vegas, Nevada, for the development of a cancer treatment facility, an adjoining park, a flood control project, a water pumping facility, and other commercial projects. While the BLM supports the goals of S. 758, we cannot support the bill unless there are major clarifications and modifications to make it consistent with our existing conveyance authorities and standard BLM practices.

The 80 acres proposed for conveyance under S. 758 are part of a larger parcel of land totaling 320 acres that was patented to the City in 1963 under the Recreation and Public Purposes Act (R&PP). The Federal government retains a reversionary interest in these lands if they are not used for the specific purposes for which they were transferred. A significant portion of this parcel of land was developed as the Angel Park Golf Course; however, the 80 acres proposed for conveyance under this bill remain undeveloped.

S. 758 provides that the City may convey without consideration portions of these lands to the Nevada Cancer Institute for the development of a new treatment facility and to the Las Vegas Valley Water District for the development of the pumping facility. The United States would retain a reversionary interest only for the portions the City conveys.

The bill also provides that if the City conveys portions of the site for the other purposes specified in section 3(a) of the bill that it must receive not less than fair market value and that the revenues received from the sales of these lands be distributed according to the formula outlined in Section 4(e)(1) of the Southern Nevada Public

Land Management Act (SNPLMA), which allows for 85 percent of the proceeds from the land sales to be deposited in the special account established under SNPLMA; 10 percent paid directly to the Southern Nevada Water Authority; and 5 percent paid directly to the State of Nevada for use in the state's general education program. It is unclear whether or not the development of an adjacent park and the flood control project would involve the City selling the land.

While BLM is generally supportive of the intentions of S. 758, we believe that the bill should be modified to ensure that the conveyances outlined in Section 3(a) guarantee a fair return to the public and are consistent with existing conveyance authorities. Where the conveyances are for public purposes, they should be done consistent with the R&PP Act. The R&PP Act provides for conveyances at less than fair market value in certain circumstances. For example, the provisions in the R&PP Act provide for a 50 percent reduction in value of conveyances to non-profit entities, such as the Nevada Cancer Institute. However, the Administration recognizes that there may, indeed, be circumstances in which the public benefits of a proposed transfer outweigh financial considerations.

For the portions of land that are intended to be used for the development of commercial projects, we recommend that S. 758 be amended to direct the BLM to sell the identified lands at auction or through a modified competitive sale and consistent with SNPLMA. In contrast, the bill, as drafted, would require that the Secretary convey the property to the City of Las Vegas, which, in turn, could convey it for "not less than fair market value." Such an amendment would eliminate the unnecessary step of conveying the land to the City, would ensure a fair return to the public, and would be consistent with standard BLM practices.

It is also possible that the specified uses identified in Section 3(a), such as the flood control project and the water pumping facility, can be administratively accomplished through the granting of rights-of-ways. The BLM would be happy to work with the City, the Flood Control District, and others in this effort.

H.R. 1311

H.R. 1311 was introduced in the House of Representatives on March 5, 2007. The BLM testified on H.R. 1311, a companion bill to S. 758, on October 23, 2007. The bill, as amended, passed the House on March 4, 2008, incorporating some but not all of our suggested changes.

Section 3 of H.R. 1311 requires the Secretary to convey to the Nevada Cancer Institute the portion of the 80 acre Alta-Hualapai Site needed for a cancer facility. It also requires the Secretary to convey to the City the remaining portion of the site needed for ancillary medical or nonprofit uses. All conveyances by the Secretary are at no cost, except for costs associated with title transfers or land surveys, at the discretion of the Secretary. Further convey-

ances by the City shall be "for no less than fair market value" and the proceeds are to be distributed in accordance with SNPLMA. To implement the conveyances, the bill directs the City to prepare a land survey that conforms to BLM's cadastral survey standards, and it provides for relinquishment of the R&PP site. The bill in Section 4 authorizes the Secretary to grant rights-of-way to the Las Vegas Water District for a flood control project and water pumping facility. Under Section 5, the United States retains a reversionary interest on all conveyed lands.

Consistent with our views on S. 758 and prior testimony on H.R. 1311, as amended, our overarching interest is that conveyances of public lands be in accordance with existing conveyance authorities. and guarantee a fair return to the public. H.R. 1311, as passed, partially fulfills these objectives. The bill provides for administrative grants of rights-of-way to the Water District, consistent with FLPMA, to authorize the flood control project and water pumping facility. We are pleased this provision utilizes BLM's existing conveyance practices and authorities, and reflects the comments raised in our previous testimony on H.R. 1311. The bill also directs the City to conduct a land survey that conforms with the BLM's cadastral survey standards. We support this provision because it applies standard administrative practices.

However, other key provisions of H.R. 1311, as amended, are not consistent with existing authorities and we cannot support the bill without additional modifications. Consistent with our views on S.758, we support the purpose of the conveyance to the Nevada Cancer Institute, but it should be done in accordance with the R&PP Act to ensure a fair return to the public. While the bill provides for lands to be conveyed to the City at no cost, and for further conveyance by the City at "no less than fair market value", it is not clear if the lands conveyed to the City are intended to be used for non-profit or commercial purposes. Again, to ensure a fair return to the public, we believe that conveyances for public purposes should be consistent with the R&PP Act, while conveyances for commercial purposes should be consistent with SNPLMA and offered by the BLM at auction or through a modified competitive sale.

Finally, H.R. 1311, as amended, requires the Secretary to report to Congress, within 180 days of enactment, on all transactions conducted under SNPLMA.

Thank you for the opportunity to testify on S. 758 and H.R. 1311, as amended. I will be happy 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 Act, H.R. 1311, as ordered reported.

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