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Calendar No. 300

111TH CONGRESS
2d Session

SENATE

REPORT
111–150

ACQUISITION OF LAND IN SALT LAKE CITY, UTAH, BY THE MOUNT OLIVET CEMETERY ASSOCIATION

MARCH 2, 2010.—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. 1442]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 1442) to provide for the sale of the Federal Government's reversionary interest in approximately 60 acres of land in Salt Lake City, Utah, originally conveyed to the Mount Olivet, Cemetery Association under the Act of January 23, 1909, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE

The purpose of H.R. 1442 is to provide for the sale of the Federal Government's reversionary interest in approximately 60 acres of land in Salt Lake City, Utah, originally conveyed to the Mount Olivet Cemetery Association under the Act of January 23, 1909.

BACKGROUND AND NEED

In 1874, churches in Salt Lake City, Utah, petitioned the Federal Government for land for a nondenominational cemetery. In 1877, Congress enacted legislation that authorized the conveyance of 20 acres of federal land to be used as a public cemetery and established a Board of Trustees, known as the Mount Olivet Cemetery Association (Association), to oversee management of the Mount Olivet Cemetery.

On January 23, 1909, Congress enacted legislation that enabled the Association to acquire an additional 60 acres of federal land adjacent to the cemetery. The land conveyance included a condition that the land would revert to the Federal Government if any of the

60 acres were not used for the purpose of the cemetery. The Bureau of Land Management holds this reversionary interest within the Department of the Interior.

H.R. 1442 would allow Rowland Hall-St. Marks School, situated adjacent to the cemetery, to purchase 13 acres of the 60 acres for facility expansion. The sale can only proceed if the Federal Government's reversionary interest is removed. H.R. 1442 would remove the government's reversionary interest.

LEGISLATIVE HISTORY

H.R. 1442, sponsored by Rep. Matheson, was reported by the Committee on Natural Resources on July 10, 2009 (H. Rept. 111–198), and passed the House of Representatives on July 16, 2009, by a vote of 422–0.

Similar legislation, S. 865, was introduced in the Senate by Senator Bennett on April 22, 2009. The Subcommittee on Public Lands and Forests held a hearing on both bills on October 8, 2009. On December 16, 2009, the Committee on Energy and Natural Resources ordered H.R. 1442 to be reported favorably without amendment.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on December 16, 2009, by a voice vote of a quorum present, recommends that the Senate pass H.R. 1442.

SECTION-BY-SECTION ANALYSIS

Section 1(a) directs the Secretary of the Interior to convey the federal reversionary interest in approximately 60 acres of land in Salt Lake City, Utah, within 30 days of an offer from the Mount Olivet Cemetery Association, provided that the offer is made within one year of the completion of an appraisal of the property.

Subsection (b) requires the Secretary to complete a survey of the property within 90 days of enactment to determine precise boundaries and acreage.

Subsection (c) requires the Secretary to complete an appraisal of the property within 180 days of enactment.

Subsection (d) provides that the Mount Olivet Cemetery Association shall pay to the Secretary the appraised value of the Federal interest within 30 days of conveyance.

Subsection (e) requires that all associated costs of the conveyance be paid by the Association.

Subsection (f) directs the deposit of proceeds from the transaction into the Federal Land Disposal Account and makes them available for expenditure in accordance with section 206(c) of the Federal Land Transaction Facilitation Act (43 U.S.C. 2305(c)).

COST AND BUDGETARY CONSIDERATIONS

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

H.R. 1442—An act to provide for the sale of the federal government's reversionary interest in approximately 60 acres of land in Salt Lake City, Utah, originally conveyed to the Mount Olivet Cemetery Association under the Act of January 23, 1909

H.R. 1442 would direct the Bureau of Land Management (BLM) to sell the federal government's reversionary interest in about 60 acres of land in Salt Lake City. CBO estimates that enacting H.R. 1442 would have no net effect on direct spending and no effect on revenues.

The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The land affected by H.R. 1442 was conveyed to the Mount Olivet Cemetery Association in 1909 under a law that specified that any portion of the conveyance not used for burials would revert to the United States. (Later statutes permitted the association to lease the land for other purposes, but not sell it.) By authorizing BLM to sell the reversionary interest in a 60-acre portion of the original conveyance to the association, the legislation would allow the land to be subsequently sold by the association. Proceeds from the sale of the reversionary interest would be available to BLM without further appropriation to acquire other lands authorized to be purchased. Administrative costs related to the transaction would be borne by the association.

Enacting H.R. 1442 would increase both offsetting receipts and associated spending of those proceeds, resulting in no net change in direct spending. CBO cannot estimate the amount of such receipts and spending in the absence of an appraisal to determine the value of the government's reversionary interest in the affected land. However, we expect that receipts and subsequent spending would total less than $1 million, probably in fiscal year 2010.

On June 23, 2009, CBO transmitted a cost estimate for H.R. 1442, as ordered reported by the House Committee on Natural Resources on June 10, 2009. The two versions of the legislation are similar, and our cost estimates the same.

The CBO staff contacts for this estimate are Deborah Reis and Daniel Hoople. The 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. 1442.

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. 1442, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 1442, as ordered reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The following testimony provided by the Bureau of Land Management was included in testimony received by the Committee at a hearing on S. 865 on October 8, 2009.

STATEMENT OF MARCILYNN A. BURKE, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Thank you for inviting the Department of the Interior to testify on S. 865 and H.R. 1442, which provide for the disposal of the Federal government's interest in certain acreage of the Mount Olivet Cemetery in Salt Lake City, Utah. The Bureau of Land Management (BLM) supports H.R. 1442 as passed by the House of Representatives.

BACKGROUND

The Mount Olivet Cemetery, in Salt Lake City, Utah, is owned and managed by the Mount Olivet Cemetery Association (the Cemetery Association). Located on the east side of Salt Lake City, the cemetery consists of approximately 80 acres of land, 20 acres of which is currently used for burials.

The Federal government, acting through the Secretary of War, first "set apart" 20 acres of what was then a military reservation "to be used as a public cemetery . . . which shall be forever devoted for the purpose of the burial of the dead" (Act of May 16, 1874). Subsequently, in 1909, the Congress provided for the conveyance of an adjacent 50 acres to the Mount Olivet Cemetery Association (under the Act of January 23, 1909). The 1909 Act provided that conveyance was contingent upon the Association first conveying to the United States a specified parcel of land, of approximately 150 acres, outside of Salt Lake City. However, the legislation also included a reverter clause, requiring that the land conveyed under the 1909 act could be used only as a cemetery:

> Said land to be by the said Mount Olivet Cemetery Association permanently used as a cemetery for the burial of the dead: *Provided,* That when it shall cease to be used for such purpose it shall revert to the United States.

The purpose of this reversionary clause is not established in the legislation. Whether it was due to an unequal exchange of lands, or for some other reason, is not stated, nor has the BLM been able to make any determination through the review of historical records.

In 1992, Congress took further action regarding Mount Olivet Cemetery with the enactment of legislation (Public Law 102–347), which allows the Cemetery Association to lease tracts of the lands conveyed in 1909 for up to 70 years, to the extent that such leases would not prevent future use as a cemetery. Public Law 102–347 speaks only to the possibility of 70-year leases, and the BLM has interpreted the 1909 reverter clause still to be in effect. Therefore, upon application by the Cemetery Association, in December of 1993, the BLM issued a "Certificate of Approval" for the lease of 15 acres to the adjacent East High School for a football field, and in January of 1996, an additional certificate was issued for the lease of lands for a nursing and retirement facility which was never built.

In recent years, the Cemetery Association has sought to sell, rather than lease, some of the acres conveyed under the 1909 Act to Rowland Hall/St. Mark's School. Because the proposal is for a sale, rather than a lease of up to 70 years, the BLM does not have the authority to approve such a conveyance by the Cemetery Association. Specific authority for the BLM to dispose of the reversionary interest, established in 1909, to the Cemetery Association, as well as any additional direction respecting valuation of this reversionary interest through appraisal, would facilitate resolution of this adjustment in land tenure.

S. 865 AND H.R. 1442

The House of Representatives passed H.R. 1442 on July 16, 2009; our testimony addresses the House-passed bill.

H.R. 1442 is a reasonable solution to the desire of the Mount Olivet Cemetery Association to be able not only to lease, but also to sell, the cemetery lands. Under H.R. 1442, the Secretary of the Interior (acting through the Department's Appraisal Service Directorate) will undertake an appraisal of the reverter clause attached to the 1909 lands. Upon receiving that appraisal, the Cemetery Association may purchase the reverter, thus owning all right, title, and interest in the land. All costs associated with this conveyance, including the appraisal, would be the responsibility of the Association.

A number of amendments were made to H.R. 1442 to address concerns raised by the Department in testimony before the House Natural Resources Committee on May 14, 2009. We support the House legislation, as amended, and encourage the Committee to amend the Senate bill accordingly.

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 S. 1140 as ordered reported.

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