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SENATE

{ REPORT
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Y MOUNTAIN CONVEYANCE

SEPTEMBER 10, 2013.—Ordered to be printed

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

R E P O R T

[To accompany S. 28]

The committee on Energy and Natural Resources, to which was referred the bill (S. 28) to provide for the conveyance of a small parcel of National Forest system land in the Uinta-Wasatch-Cache National Forest in Utah to Brigham Young University, and for other purposes, having considered the same, reports favorably thereon with amendments and an amendment to the title and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 1, lines 4 and 5, strike “Y Mountain Access Enhancement Act” and insert “Upper Y Mountain Trail and Y Conveyance Act”.
2. On page 2, strike lines 11 through 15 and insert the following:
National Forest in the State of Utah, as generally depicted on the map entitled “Upper Y Mountain Trail and Y Conveyance Act” and dated June 6, 2013, subject to valid existing rights and by quitclaim deed.
3. On page 3, line 5, strike “GUARANTEED”.
4. On page 3, line 7, strike “represents that it”.
5. Amend the title so as to read: “A bill to provide for the conveyance of an approximately 80-acre parcel of National Forest System land in the Uinta-Wasatch-Cache National Forest in Utah to Brigham Young University, and for other purposes.”.

PURPOSE

The purpose of S. 28 is to provide for the conveyance of a small parcel of National Forest System land in the Uinta-Wasatch-Cache National Forest in Utah to Brigham Young University.

BACKGROUND AND NEED

Y Mountain is the location of a white block “Y” in Provo, Utah, overlooking Utah Valley and the Brigham Young University (BYU) campus. The Y was constructed in 1906. BYU currently owns and maintains the trailhead and much of the trail leading up to the Y. The remaining property is owned by the Forest Service, and is managed through a special use permit with BYU, that has been typically been renewed every 10 years.

BYU is interested in owning the remaining property rather than continuing to renew the existing special use permit with the Forest Service in order to guarantee its ability to maintain the Y and surrounding grounds. S. 28 would therefore direct the Secretary of Agriculture (Secretary) to convey to BYU all right, title, and interest of the United States to two parcels comprising approximately 80.99 acres of National Forest System land in the Uinta-Wasatch-Cache National Forest in Utah.

LEGISLATIVE HISTORY

S. 28 was introduced by Senators Hatch, Lee, Crapo, and Flake on January 22, 2013. A hearing was held by the Subcommittee on Public Lands, Forests and Mining on April 25, 2013 on the bill. At its business meeting on June 18, 2013, the bill was reported favorably with amendments and an amendment to the title.

In the 112th Congress, similar legislation was introduced in the House, H.R. 4484. The Subcommittee on National Parks, Forests, and Public Lands held a hearing on H.R. 4484 on June 28, 2012. The House Committee on Natural Resources favorably reported H.R. 4484 with an amendment on July 11, 2012. H.R. 4484 then passed the House by a voice vote under suspension of the rules on July 23, 2012.

COMMITTEE AMENDMENTS

During its consideration of S. 28, the Committee adopted five amendments. The first changes the short title. The second replaces the section, township, and range description of the parcel with a map reference. The third clarifies the heading of section 2(c). The fourth clarifies BYU’s public access assurances. The fifth amends the long title.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on June 18, 2013, by a voice vote of a quorum present, recommends that the Senate pass S. 28, if amended as described herein.

SECTION-BY-SECTION ANALYSIS

Section 1 provides a short title.

Section 2(a) requires the Secretary of Agriculture to convey to Brigham Young University all right, title, and interest of the United States in and to an approximately 80-acre parcel of National Forest System land in the Uinta-Wasatch-Cash National Forest depicted in the map entitled “Upper Y Mountain Trail and Y Conveyance Act dated June 6, 2013.”

Subsection (b)(1) requires Brigham Young University to pay to the Secretary an amount equal to the fair market value of the land. This amount will be determined by an appraisal approved by the Secretary and in conformity with the Uniform Appraisal Standards for Federal Land Acquisitions and section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

Paragraph (2) requires the revenue generated from the land conveyance to be deposited in the general fund of the Treasury for federal deficit reduction.

Subsection (c)(1) ensures reasonable public access to the trailhead and portion of the Y Mountain Trail already owned by Brigham Young University.

Paragraph (2) ensures reasonable public access to the portion of the Y Mountain Trail and the “Y” symbol as determined by Brigham Young University.

Subsection (d) requires the exact acreage and legal description of the land to be conveyed to be determined by a survey and Brigham Young University to pay the costs of the survey, appraisal, and any administrative analyses.

COST AND BUDGETARY CONSIDERATIONS

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

S. 28—Upper Y Mountain Trail and Y Conveyance Act

S. 28 would require the Secretary of Agriculture to sell, for fair market value, about 80 acres of federal land located in Utah to Brigham Young University. Based on information about the value of similar lands in northern Utah, CBO estimates that enacting the legislation would increase offsetting receipts, which are treated as reductions in direct spending, by less than \$500,000 in 2014; therefore, pay-as-you-go procedures apply. Because the bill would require the university to cover any administrative costs associated with the conveyance, CBO estimates that implementing the bill would not affect discretionary spending. Enacting S. 28 would not affect revenues.

S. 28 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.

On May 6, 2013, CBO transmitted a cost estimate for H.R. 253, the Y Mountain Access Enhancement Act, as ordered reported by the House Committee on Natural Resources on April 24, 2013. The two bills are similar, and the CBO cost estimates are the same.

The CBO staff contact for this estimate is Jeff LaFave. 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 S. 28.

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. 28, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 28, as 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 testimony provided by Forest Service at the April 25, 2013, Subcommittee on Public Lands, Forests, and Mining hearing on S. 28 follows:

STATEMENT OF JAMES M. PEÑA, ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. Chairman, Ranking Member Barrasso, and members of the Committee, thank you for inviting me here today to testify regarding S. 28, the “Y” Mountain Access Enhancement Act.

S. 28, the “Y” Mountain Access Enhancement Act, would direct the Secretary to convey to Brigham Young University (BYU) all right, title, and interest of the United States to two parcels comprising approximately 89 acres of National Forest System land in the Uinta-Wasatch-Cache National Forest in the State of Utah, as shown on the accompanying map. The southern parcel is a split estate, so the United States would only convey what it owns (the surface estate). The United States does not own the underlying mineral estate.

The Department does not object to the conveyance of the two parcels, but would like to work with the Subcommittee and the sponsor to address public access at the trailhead. The trailhead and beginning portion of the “Y” Mountain Trail are located on land owned by the University. These parcels are adjacent to it. Historically, the public has been permitted access to the trailhead and trail. Section 2(c) of the bill seeks to provide the same reasonable public access for the trail that historically has been allowed. To accomplish this objective, the Department recommends that section 2(c) be revised to provide for the reservation by the Secretary of an easement for public access for the portion of Forest Service Trail #2062 that would be conveyed to the University. In addition, there is no legal public access to the trail and trailhead located on BYU owned property. Therefore, to ensure legal public access, the Department suggests the Committee consider an amendment to allow the Secretary to obtain an easement from BYU for the trailhead parking lot and the portion of trail that traverses across BYU property.

The bill provides for the conveyance of this land for consideration in the amount equal to the fair market value of

the land. The bill also requires the proceeds from the sale shall be deposited in the general fund of the Treasury to reduce the Federal debt. The Department recommends utilizing Public Law 90-171, commonly known as the "Sisk Act" (16 U.S.C. 484a), which would allow for the deposit of proceeds received for a conveyance into the fund established under the Sisk Act for the acquisition of land or interests in land within the State of Utah.

This concludes my testimony and I would be happy to answer any questions that you may have.

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 S. 28, as ordered reported.

