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SENATE

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LA PAZ COUNTY LAND CONVEYANCE ACT

NOVEMBER 14, 2018.—Ordered to be printed

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

R E P O R T

[To accompany H.R. 2630]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (H.R. 2630) to authorize the Secretary of the Interior to convey certain land to La Paz County, Arizona, and for other purposes, having considered the same, reports favorably thereon with amendments, and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 2, line 9, strike “8,800” and insert “5,935”.
2. On page 2, line 16, strike “May 24, 2017” and insert “October 1, 2018”.
3. Beginning on page 2, strike line 20 and all that follows through page 4, line 6, and insert the following:

(a) **IN GENERAL.**—Notwithstanding the planning requirement of sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713) and in accordance with this section and other applicable law, as soon as practicable after receiving a request from the County to convey the Federal land, the Secretary shall convey the Federal land to the County.

(b) **RESTRICTIONS ON CONVEYANCE.**—

- (1) **IN GENERAL.**—The conveyance under subsection (a) shall be subject to—
 - (A) valid existing rights; and
 - (B) such terms and conditions as the Secretary determines to be necessary.

(2) EXCLUSION.—The Secretary shall exclude from the conveyance under subsection (a) any Federal land that contains significant cultural, environmental, wildlife, or recreational resources.

(c) PAYMENT OF FAIR MARKET VALUE.—The conveyance under subsection (a) shall be for the fair market value of the Federal land to be conveyed, as determined—

(1) in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(2) based on an appraisal that is conducted in accordance with—

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

(B) the Uniform Standards of Professional Appraisal Practice.

(d) PROTECTION OF TRIBAL CULTURAL ARTIFACTS.—As a condition of the conveyance under subsection (a), the County shall, and as a condition of any subsequent conveyance, any subsequent owner shall—

4. On page 4, line 11, strike “work” and insert “coordinate”.

5. On page 4, line 17, strike “(d)” and insert “(e)”.

6. On page 5, line 4, strike “(e)” and insert “(f)”.

7. On page 5, line 7, strike “(f)” and insert “(g)”.

8. On page 5, line 10, strike “(b)(3)” and insert “(c)(2)”.

9. On page 5, after line 14, add the following:

(h) PROCEEDS FROM THE SALE OF LAND.—The proceeds from the sale of land under this section shall be—

(1) deposited in the Federal Land Disposal Account established by section 206(a) of the Federal Land Transaction Facilitation Act (43 U.S.C. 2305(a)); and

(2) used in accordance with that Act (43 U.S.C. 2301 et seq.).

PURPOSE

The purpose of H.R. 2630 is to authorize the Secretary of the Interior (Secretary) to convey certain Federal land to La Paz County, Arizona.

BACKGROUND AND NEED

Nearly 77 percent of the land base in La Paz County, Arizona, is owned by the United States. An additional 250,000 acres are held in trust by the United States for Indian Tribes. With less than five percent of La Paz County (County) in private ownership, opportunities for growth and economic development in the county are limited.

The Ten West Link is a proposed 500 kilovolt electric transmission line that would run through La Paz County and presents an opportunity for energy-related economic development. The County has identified a parcel of land administered by the Bureau of Land Management (BLM) near the proposed transmission line which the County believes will be suitable for the development of a large scale solar project.

The BLM has also analyzed and considered this land for solar energy potential. In so doing, it has identified the parcel as “vari-

ance lands,” indicating the parcel has high potential but may have a minor resource conflict that would need to be avoided or mitigated in a sight-specific analysis. BLM’s formal designation of “solar energy zones” is limited to lands with no resource conflicts.

As ordered reported, H.R. 2630 authorizes the conveyance of approximately 5,935 acres within the parcel identified by the County, to allow for solar energy development. To date, there have been no identified environmental, wildlife, cultural resources, organized recreation, grazing allotments, or other activities that would warrant special protection on the 5,935 acres conveyed by this Act.

However, the Mohave people indigenous to La Paz County are members of, and have cultural ties to the Colorado River Indian Tribes (CRIT), a federally recognized Native American tribe headquartered in Parker, Arizona. Traditional Mohave culture dictates that artifacts and other remnants of Mohave life retain great spiritual value when they remain present on the land where they are buried. Given the potential for discovery during development, the County has committed to engage directly with the CRIT Historic Preservation Office to ensure that any uncovered tribal artifacts will be reburied on site rather than curated in warehouses miles from the origin of the find. This agreement is reflected in the legislation.

LEGISLATIVE HISTORY

Representative Gosar introduced H.R. 2630 in the House of Representatives on May 24, 2017. H.R. 2630 was favorably reported, with an amendment in the nature of a substitute, by the Committee on Natural Resources on January 29, 2018, and passed the House of Representatives by voice vote, as amended, on July 23, 2018.

Similar legislation, S. 1222, was introduced by Senator Flake on May 24, 2017. The Subcommittee on Public Lands, Forests and Mining held a hearing on the legislation on February 7, 2018.

The Senate Committee on Energy and Natural Resources met in an open business session on October 2, 2018, and ordered H.R. 2630 favorably reported, as amended.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on October 2, 2018, by a majority voice vote of a quorum present, recommends that the Senate pass H.R. 2630, if amended as described herein.

COMMITTEE AMENDMENTS

During its consideration of H.R. 2630, the Committee adopted amendments to reduce the amount of land to be conveyed from approximately 8,800 acres to 5,935 acres; update the map reflecting the new parcel; and remove the phased conveyance of the lands from BLM to the County. In addition, the adopted amendments direct the conveyance proceeds into the Federal Land Disposal Account established by the Federal Land Transaction Facilitation Act, and made a number of technical changes.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title

Section 1 sets forth the short title.

Sec. 2. Definitions

Section 2 defines key terms.

Sec. 3. Conveyance to La Paz County, Arizona

Subsection (a) directs the Secretary to convey approximately 5,935 acres of Federal land to La Paz County, Arizona upon the County's request.

Subsection (b) requires that the conveyance be subject to valid existing rights and such terms and conditions the Secretary determines to be necessary. This subsection also directs the Secretary to exclude from the conveyance any lands that contain significant cultural, environmental, wildlife or recreational resources.

Subsection (c) requires La Paz County to pay fair market value for the conveyed land, as determined in accordance with the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.) and based on an appraisal done pursuant to applicable standards.

Subsection (d) conditions the conveyance to the County, as well as any subsequent conveyance to another owner, on: (1) making good faith efforts to avoid disturbing Tribal artifacts; (2) minimizing impacts on any disturbed Tribal artifacts; (3) coordinating with the CRIT Tribal Historic Preservation Office to identify culturally and historically significant artifacts; and (4) allowing Tribal representatives to rebury any unearthened artifacts near the discovery location. This provision reflects an agreement between CRIT and the County to protect the cultural resources on the land conveyed by this Act.

Subsection (e) requires the map depicting the conveyed parcel to be available publically and allows the Secretary and County to make minor boundary adjustments and corrections by mutual agreement.

Subsection (f) withdraws the Federal land authorized for conveyance from mining and mineral leasing laws.

Subsection (g) requires the County to pay the appraised value, as well as all conveyance-related costs, as a condition of the Federal land conveyance.

Subsection (h) directs proceeds from the land sale to the Federal Land Transaction Facilitation Act's Federal Land Disposal Account (43 U.S.C. 2305(a)).

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the costs of this measure has been provided by the Congressional Budget Office: H.R. 2630 would direct the Department of the Interior (DOI) to convey, upon request, up to 5,935 acres of federal land to La Paz County, Arizona. The county would be required to pay the estimated fair-market value for the affected lands, which would be used by commercial entities to produce solar energy.

Based on the value of similar lands in La Paz County, CBO estimates that the county would pay DOI between \$700 and \$1,000 per acre to acquire those lands or about \$5 million in total. Those pay-

ments would be recorded as reductions in direct spending. CBO expects that the payment and land conveyance would occur within the 2019–2028 period.

Because enacting H.R. 2630 would affect direct spending, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 2630 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 2630 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

On January 23, 2018, CBO transmitted a cost estimate for H.R. 2630, the La Paz County Land Conveyance Act, as ordered reported by the House Committee on National Resources on November 30, 2017. The House Committee version of the legislation directed the sale of more acreage over a longer time period than would be the case for the Senate Committee version. The CBO cost estimates reflect those differences. CBO estimates that enacting the House Committee version of the legislation would reduce direct spending by \$3 million over the 10 year period.

The CBO staff contact for this estimate is Jacob Fabian. The estimate was reviewed by H. Samuel Papenfuss, 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. 2630. 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. 2630, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

H.R. 2630, 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 testimony provided by the Department of the Interior at the February 7, 2018, hearing on S. 1222, similar legislation to H.R. 2630, follows:

STATEMENT OF BRIAN STEED, DEPUTY DIRECTOR FOR POLICY & PROGRAMS, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Thank you for inviting the Department of the Interior (Department) to testify on S. 1222, the La Paz County Land Conveyance Act. The bill proposes to convey to La Paz County, Arizona, approximately 8,000 acres of public

lands managed by the Bureau of Land Management (BLM). Secretary Zinke, through Secretarial Order 3347, has pledged to expand access to America's public lands and increase hunting, fishing, and recreational opportunities nationwide. In addition, the Secretary is focused on restoring full collaboration and coordination with local communities, working with partners to promote multiple use on public lands, and making the Department a better neighbor. While the Department supports the goals of S. 1222 that align with these important priorities, we have concerns with the legislation as drafted.

BACKGROUND

La Paz County, located in western Arizona, is home to over 20,000 people and holds important recreational value because of its close proximity to the Colorado River; the Cibola, Bill Williams River, and Imperial National Wildlife Refuges; and a number of cultural and historic sites, including old mines and ghost towns.

The BLM regularly leases and conveys lands to local governments and nonprofit entities for a variety of public purposes. These leases and conveyances are typically accomplished under the provisions of the Recreation and Public Purposes Act (R&PP Act) or through direction supplied by specific Acts of Congress. Such direction allows the BLM to help States, local communities, and nonprofit organizations obtain lands at nominal cost for important public purposes. The Department generally supports appropriate legislative conveyances at nominal cost if the lands are to be used for purposes consistent with the R&PP Act, and if the conveyances have reversionary clauses to enforce this requirement.

It should be noted that Secretary Zinke is opposed to the wide-scale sale or transfer of Federal lands. That said, Secretary Zinke is interested in working with Congress on proposals that have the specific goal of preserving access and recreational opportunities for future generations while supporting local community needs.

S. 1222

S. 1222 directs the Secretary of the Interior to convey approximately 8,000 acres managed by the BLM to La Paz County for uses consistent with the R&PP Act and subject to valid existing rights. The bill also contains a reversionary clause that provides for the land to revert to the United States, at the discretion of the Secretary, if it ceases to be used for recreation and public purposes. While the County would receive the land itself at no cost, the County would pay any administrative costs associated with the conveyance (e.g., cultural and cadastral surveys).

The County would also have the option under S. 1222 to acquire the Federal reversionary interest in these lands at fair market value, as determined by an appraisal. The bill further states that the County would be responsible for the costs associated with this appraisal and includes language

releasing the United States from liability for any hazardous materials that may be present on the public lands before the date of conveyance.

As a matter of policy, the Department supports working with local governments to resolve land tenure issues that advance worthwhile public policy objectives. In general, the Department supports the proposed conveyance, if it is consistent with the existing R&PP authority. We are concerned, however, that the total acreage proposed for conveyance is significantly larger than what is normally authorized for public purposes under the R&PP Act, and we are concerned that this legislation, as currently drafted, would ultimately mandate conveyances that effectively authorize non-R&PP use. Our understanding is also that La Paz County ultimately intends to use the site for solar energy development, which would be inconsistent with the R&PP Act. We would like to work with the sponsor on amendments to the bill that more closely tailors it to the needs of La Paz County while ensuring that unnecessary acreage remains available for multiple uses.

The Department is also committed to continuing its adherence to the Uniform Appraisal Standards for Federal Land Acquisition and Uniform Standards of Professional Appraisal Practice, and appreciates the sponsor's including these provisions in the bill. We recommend the bill be modified to clarify that the appraisal process will be managed by DOI's Office of Valuation Services. The Office of Valuation Services provides credible, timely, and efficient valuation services to ensure public trust in Federal real property transactions.

Finally, we note that the lands proposed for conveyance have not been identified as potentially suitable for disposal in the Yuma Resource Management Plan, which the BLM completed in 2010.

CONCLUSION

Thank you for the opportunity to present the Department's views on S. 1222. We look forward to working with the sponsor and the Committee on modifications to the bill that will meet the needs of La Paz County and benefit the American people.

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 H.R. 2630 as ordered reported.