

RADANOVICH), the distinguished chairman of the Subcommittee on National Parks, Recreation and Public Lands.

Mr. Speaker, H.R. 3401 directs the Forest Service to convey approximately a 27.10-acre administrative site on the Stanislaus National Forest in California to the Clovis Unified School District, or CUSD. The parcel contains the Five Mile Regional Learning Center, which since 1989 has been operating under a special use permit by the school district as a conservation education center.

The learning center serves approximately 14,000 students and is in need of significant repair. While the Clovis Unified School District is willing to put up \$5 million toward capital improvement, it could only secure funding for district-owned properties. The bill also mandates that the Secretary negotiate a special use permit for approximately 100 acres for the school district to use in its educational programs. The school district currently has a special use permit covering 120 acres. The bill includes a reversionary clause as well.

Mr. Speaker, the administration values this land at approximately \$1 to \$2 million. Although we generally do not support the conveyance of Federal lands for little or no consideration, this conveyance is to a school district to foster environmental education. The Clovis Unified School District is also willing to make capital improvements or investment of some \$5 million and requires title to do so, when the Forest Service is apparently unable to maintain the property.

I would like to thank the gentleman from California (Mr. RADANOVICH), the chairman of the Subcommittee on National Parks, Recreation and Public Lands, for working with us on this side of the aisle, the minority, to address concerns with the reversionary clause and clarifying that were the land to revert to the United States, the learning center would be liable for any hazardous substances present on the property since 1989.

Again, Mr. Speaker, I commend the gentlewoman for her management of this bill.

Mr. RADANOVICH. Mr. Speaker, there has been some concern regarding the provision regarding the reversionary interest in the land and the potential liabilities to the Government. I would like to clarify the issue for the record. It is our intent that the California Five Mile Regional Learning Center shall be liable for any contamination of the property by hazardous substances since it commenced occupancy in 1989. In the event that the property reverts back to the United States under section 2(c) of the Act, the Center or its successors shall continue to be liable for environmental contamination under existing law, and the Secretary shall require environmental remediation in such event before retaking possession.

Mr. FALCOMA. Mr. Speaker, I do not have additional speakers, and I yield back the balance of my time.

Mrs. CUBIN. Mr. Speaker, having no other requests for time, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Wyoming (Mrs. CUBIN) that the House suspend the rules and pass the bill, H.R. 3401, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REASONABLE RIGHT-OF-WAY FEES ACT OF 2002

Mrs. CUBIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3258) to amend the Federal Lands Policy and Management Act of 1976 to clarify the method by which the Secretary of the Interior and the Secretary of Agriculture determine the fair market value of rights-of-way granted, issued, or renewed under such act to prevent unreasonable increases in certain costs in connection with the deployment of communications and other critical infrastructure, as amended.

The Clerk read as follows:

H.R. 3258

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reasonable Right-of-Way Fees Act of 2002".

SEC. 2. CLARIFICATION OF FAIR MARKET RENTAL VALUE DETERMINATIONS FOR PUBLIC LANDS AND FOREST SERVICE RIGHTS-OF-WAY.

(a) *LINEAR RIGHTS-OF-WAY UNDER FEDERAL LAND POLICY AND MANAGEMENT ACT.—Section 504 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764) is amended by adding at the end the following new subsection:*

"(k) DETERMINATION OF FAIR MARKET VALUE OF LINEAR RIGHTS-OF-WAY.—(1) Effective upon the issuance of the rules required by paragraph (2), for purposes of subsection (g), the Secretary concerned shall determine the fair market rental for the use of land encumbered by a linear right-of-way granted, issued, or renewed under this title using the valuation method described in paragraphs (2), (3), and (4).

"(2) Not later than one year after the date of enactment of the Reasonable Right-of-Way Fees Act of 2002, and in accordance with subsection (k), the Secretary of the Interior shall amend section 2803.1-2 of title 43, Code of Federal Regulations, as in effect on the date of enactment of such Act, to revise the per acre rental fee zone value schedule by State, county, and type of linear right-of-way use to reflect current values of land in each zone. The Secretary of Agriculture shall make the same revisions for linear rights-of-way granted, issued, or renewed under this title on National Forest System lands.

"(3) The Secretary concerned shall update annually the schedule revised under paragraph (2) by multiplying the current year's rental per acre by the annual change, second quarter to the second quarter (June 30 to June 30) in the Gross National Product Implicit Price Deflator Index published in the Survey of Current Business of the Department of Commerce, Bureau of Economic Analysis.

"(4) Whenever the cumulative change in the index referred to in paragraph (3) exceeds 30 percent, or the change in the 3-year average of the 1-year Treasury interest rate used to determine per acre rental fee zone values exceeds plus

or minus 50 percent, the Secretary concerned shall conduct a review of the zones and rental per acre figures to determine whether the value of Federal land has differed sufficiently from the index referred to in paragraph (3) to warrant a revision in the base zones and rental per acre figures. If, as a result of the review, the Secretary concerned determines that such a revision is warranted, the Secretary concerned shall revise the base zones and rental per acre figures accordingly."

(b) *RIGHTS-OF-WAY UNDER MINERAL LEASING ACT.—Section 28(l) of the Mineral Leasing Act (30 U.S.C. 185(l)) is amended by inserting before the period at the end the following: "using the valuation method described in section 2803.1-2 of title 43, Code of Federal Regulations, as revised pursuant to section 504(k) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1764(k))."*

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Wyoming (Mrs. CUBIN) and the gentleman from American Samoa (Mr. FALCOMA) each will control 20 minutes.

The Chair recognizes the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, I know many of my colleagues, especially from the West, are strong advocates of fair and reasonable Federal land rights-of-way fees.

This Nation's system of roadways and railways was born of effective partnerships in planning and construction between the Federal Government and private industry. Today, we face the challenge of expanding the next generation of technology and energy infrastructures to the underserved areas of the country and bringing commercial benefits to citizens set apart by geographic, economic and digital divides.

I serve as a member of the House Committee on Energy and Commerce, Subcommittee on Telecommunications and the Internet. As such, I have been exploring ways to facilitate the expansion of telecommunications infrastructure in my home State of Wyoming.

In doing so, I became aware of a significant Federal obstacle to infrastructure development nationwide. Recent applications of the Federal Land Policy and Management Act, which I will call FLPMA, have resulted in exorbitant increases in fees to cross Federal lands. Telecommunications providers, particularly those building the next generation of fiber optic broadband infrastructure, have been specifically targeted for these fee increases, while other infrastructure providers have been put on notice of changes to come.

FLPMA requires that private users of public lands pay a fair price for that privilege, a policy that protects the value of our Federal lands, helps ensure that those resources continue to be available to and accommodating of a number of a multitude of compatible uses.

Recent interpretations of FLPMA, however, have motivated policies which reach way beyond the value of Federal lands, attempting to associate the right of way to cross Federal lands with the revenues generated by the use of telecommunications technologies.

In the exercising of our public trust, the Federal Government protects and preserves the public interest in our Federal lands. I am confident, however, that there is little public interest in turning our Federal lands into toll booths or roadblocks on the information superhighway or along the path of any of our Nation's critical infrastructures.

In 1999 and 2000, revisions to the right-of-way rental fee schedules by the Bureau of Land Management and the U.S. Forest Service led to some fiber optic telecommunications companies receiving fee increases of 100 to 150 times their previous annual bills.

□ 1515

Congress put a temporary halt to these interim revisions to existing right-of-way regulations in the fiscal year 2001 appropriations bill.

As the agent situation proceedings toward the rulemaking process required to change existing right-of-way fees, it is important that their responsibilities regarding the determination and collection of right-of-way fees be clear and that we avoid a reiteration of the previous misguided proposals.

A permanent solution must be found. H.R. 3258, the Reasonable Right-of-Way Fees Act, is that solution. H.R. 3258 clarifies the responsibilities we have to protect the value of Federal lands, explicitly limiting fees we charge for rights-of-way to the value of those lands.

As a representative of the most rural State in the country, I recognize the tremendous value the vast open spaces of our rural West has, including the lands managed by the Federal Government. These lands should not become an obstacle to infrastructure development. Charging fair market value for the use of Federal lands does not mean a share in the revenues associated with the facilities crossing Federal lands.

H.R. 3258 was introduced to help guarantee that Federal lands will continue to be protected as valuable national resources and ensures that these lands will not present unnecessary obstacles to infrastructure deployment and improvement.

During the Committee on Resources's legislative hearing on H.R. 3258, the BLM witness testified that the methodology laid out in the bill may be too prescriptive and would mandate the BLM and other agencies do more than one appraisal when determining the rental fee right-of-way for an individual. During the Committee on Resources' consideration of H.R. 3258, I offered an amendment in the nature of a substitute that simply codified the existing BLM regulations.

These regulations, which were promulgated in 1987, lay out a formula for the right-of-way fee schedule based solely on the value of the land. This methodology will prevent the spikes and fluctuations many telecommunications and pipeline companies found when the BLM and Forest Service val-

ued the right-of-way by the revenue generated by the products that crossed Federal lands.

The substitute that was accepted by the committee will ensure a fair return to the Federal Government by directing the Secretaries of the Interior and Agriculture to annually assess the changes in the land values and predicate the fee schedule formula on those land value increases.

We all know that land values typically will increase over time. They do not, however, increase by uncontrollable increments like a throughput valuation that had been used does.

H.R. 3258 is endorsed by, among others, the TelROW Coalition, which represents the interests of telecommunications companies providing services throughout the country.

I want to thank the Departments of the Interior and Agriculture for their help in providing guidance on this complicated issue and for their instruction memorandum issued to field officials ensuring that the right-of-way rental fees will be based solely on land values.

Mr. Speaker, I look forward to the House's swift passage of this bill and prompt consideration by the Senate.

Mr. Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield myself such time as I may consume.

(Mr. FALEOMAVAEGA asked and was given permission to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Mr. Speaker, I first want to thank the gentlewoman for being the primary sponsor of this proposed legislation.

The Federal Lands Policy Management Act requires those seeking a right-of-way across Forest Service or BLM land to pay a fee based on the fair market value of that right-of-way. Despite this requirement, however, investigations conducted by the Department of the Interior's Inspector General and the General Accounting Office have provided ample evidence that the right-of-way fees currently being charged by the agencies are far below fair market value.

Mr. Speaker, States, local governments, and private individuals all charge significantly more than the Federal Government for the rights-of-way across lands they own. In particular, the Inspector General report estimated that the fees charged by the BLM were as much as \$50 million below fair market value. This undercharging means that large corporations who stand to make vast profits on the use of public lands are not being required to pay the American people a fair rate of return for that privilege.

As a result, Mr. Speaker, we share the desire of the gentlewoman from Wyoming (Mrs. CUBIN) to correct this problem. While we had some concerns regarding the multiple appraisal approach contained in the bill as introduced, in working with the gentlewoman from Wyoming we feel we have

agreed on an approach that will address this problem more effectively.

Mr. Speaker, as amended, H.R. 3258 will require the agencies to review their existing fee schedules, and the land valuations which underlie them, to ensure that they represent current values. In addition, this measure will ensure that, once these new fees have been promulgated, they will be adjusted annually for inflation.

This approach, Mr. Speaker, may not be perfect, but it certainly is an improvement over the status quo and should move us closer to a system that adequately compensates the taxpayers for the use of their lands.

I would like to once again thank the gentlewoman from Wyoming for her willingness to work with us on this side of the aisle, and I urge the adoption of this proposed bill.

Mrs. CUBIN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FALEOMAVAEGA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentlewoman from Wyoming (Mrs. CUBIN) that the House suspend the rules and pass the bill, H.R. 3258, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read:

Amend the title so as to read: "A bill to amend the Federal Land Policy and Management Act of 1976 and the Mineral Leasing Act to clarify the method by which the Secretary of the Interior and the Secretary of Agriculture determine the fair market value of certain rights-of-way granted, issued, or renewed under these Acts."

A motion to reconsider was laid on the table.

FLIGHT 93 NATIONAL MEMORIAL ACT

Mrs. CUBIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3917) to authorize a national memorial to commemorate the passengers and crew of Flight 93 who, on September 11, 2001, courageously gave their lives thereby thwarting a planned attack on our Nation's Capital, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3917

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Flight 93 National Memorial Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) *FINDINGS.*—Congress finds the following:

(1) *Passengers and crewmembers of United Airlines Flight 93 of September 11, 2001, courageously gave their lives, thereby thwarting a planned attack on our Nation's Capital.*

(2) *In the months since the historic events of September 11, thousands of people have visited the Flight 93 site, drawn by the heroic action and sacrifice of the passengers and crew aboard Flight 93.*