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REPORT
110–531

ORCHARD DETENTION BASIN FLOOD CONTROL ACT

FEBRUARY 28, 2008.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 816]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 816) to provide for the release of certain land from the Sunrise Mountain Instant Study Area in the State of Nevada and to grant a right-of-way across the released land for the construction and maintenance of a flood control project, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Orchard Detention Basin Flood Control Act".

SEC. 2. RELEASE OF CERTAIN LAND IN THE SUNRISE MOUNTAIN INSTANT STUDY AREA.

(a) FINDING.—Congress finds that the land described in subsection (c) has been adequately studied for wilderness designation under section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(b) RELEASE.—The land described in subsection (c)—

(1) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(2) shall be managed in accordance with—

(A) land management plans adopted under section 202 of that Act (43 U.S.C. 1712); and

(B) cooperative conservation agreements in existence on the date of the enactment of this Act.

(c) DESCRIPTION OF LAND.—The land referred to in subsections (a) and (b) is the approximately 65 acres of land in the Sunrise Mountain Instant Study Area of Clark County, Nevada, that is—

(1) known as the "Orchard Detention Basin"; and

(2) designated for release on the map titled "Orchard Detention Basin" and dated March 18, 2005.

69–006

PURPOSE OF THE BILL

The purpose of H.R. 816 is to provide for the release of certain land from the Sunrise Mountain Instant Study Area in the State of Nevada for the construction and maintenance of a flood control project known as the Orchard Detention Basin.

BACKGROUND AND NEED FOR LEGISLATION

The 10,240-acre Sunrise Mountain Instant Study Area (ISA), managed by the Bureau of Land Management (BLM), is located just east of Las Vegas in Clark County, Nevada. The proposed Orchard Detention Basin Project is a part of the Clark County Regional Flood Control District's master plan to protect the rapidly growing Las Vegas Valley. The project is designed to shield 1,800 acres of urban land from flooding.

Section 603 of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1782) requires the Secretary to review for wilderness suitability all roadless areas of at least 5,000 acres identified as having wilderness characteristics, such as the Sunrise Mountain ISA. The Secretary is required to manage these areas as wilderness until Congress has determined otherwise. The BLM reviewed the Sunrise Mountain ISA and recommended that it be released for uses other than wilderness.

H.R. 816 releases a 65-acre section of the ISA from further wilderness study for the construction and maintenance of a flood water retention basin known as the Orchard Detention Basin Project. Once released from wilderness study, the BLM has the existing authority to grant the right of way under FLPMA, subject to a National Environmental Policy Act analysis, project-specific terms and conditions, and payment of rent which is normally waived for rights of way granted to local governments.

COMMITTEE ACTION

H.R. 816 was introduced February 5, 2007, by Representative Jon Porter (R–NV). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on National Parks, Forests and Public Lands. On October 23, 2007, the Subcommittee held a hearing on the bill, where a representative of the BLM told the Subcommittee that the Interior Department supports the bill.

On February 13, the full Natural Resources Committee met to consider the bill. Subcommittee Chairman Raul Grijalva (D–AZ) offered an amendment in the nature of a substitute that deleted the specific right-of-way language in the bill as introduced because the BLM has authority to execute this administratively. The Grijalva amendment was adopted by unanimous consent. The bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title.

Section 1 entitles this Act the "Orchard Detention Basin Flood Control Act".

Section 2. Release of Certain Land in the Sunrise Mountain Instant Study Area.

Subsection 2(a) finds that land described in Subsection 2(c) has been adequately studied for wilderness suitability and designation under section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

Subsection 2(b)(1) releases the 65 acres of land described in subsection 2(c) from further wilderness study providing that the land is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 17829(c)), thus, the Secretary is no longer required to manage it as wilderness.

Subsection 2(b)(2) provides that the land instead shall be used and managed in accordance with both: subsection (A), land management plans adopted under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); and in accordance with subsection (B) cooperative conservation agreements in existence on the date of the enactment of this Act.

Subsection 2(c) describes the land, referred to in subsections 2(a) and 2(b), that is to be released as the approximately 65 acres in the Sunrise Mountain Instant Study Area of Clark County, Nevada, known as the "Orchard Detention Basin" and designated for release on the map entitled "Orchard Detention Basin" and dated March 18.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3, of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives

and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 816—Orchard Detention Basin Flood Control Act

H.R. 816 would release 65 acres of land currently designated as a wilderness study area in the Bureau of Land Management's (BLM' s) Sunrise Mountain Instant Study Area and allow it to be used for other activities. An "instant study area" is a federal designation that protects environmentally sensitive areas by restricting development.

Based on information from BLM, CBO estimates that enacting H.R. 816 would have no significant effect on the federal budget. According to the agency, the land that would be affected by the bill currently does not generate any significant receipts, and it is unlikely to do so in the next 10 years. Therefore, we estimate that altering the status of this land would not significantly affect federal offsetting receipts (a credit against direct spending). Enacting H.R. 816 would not affect federal revenues.

H.R. 816 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 CBO staff contact for this estimate is Matthew Pickford. This estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 816 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

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