

Calendar No. 631

106TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 106-313

WASHAKIE COUNTY AND BIG HORN COUNTY, WYOMING

JUNE 27, 2000.—Ordered to be printed

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

REPORT

[To accompany S. 610]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 610) to direct the Secretary of the Interior to convey certain land under the jurisdiction of the Bureau of Land Management in Washakie County and Big Horn County, Wyoming, to the Westside Irrigation District, Wyoming, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. CONVEYANCE.

(a) IN GENERAL.—On completion of an environmental analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Secretary of the Interior, acting through the Director of the Bureau of Land Management (referred to in this Act as the “Secretary”), shall convey to the Westside Irrigation District, Wyoming (referred to in this Act as “Westside”), all right, title, and interest (excluding the mineral interest) of the United States in and to such portions of the Federal land in Big Horn County and Washakie County, Wyoming, described in subsection (c), as the district enters into an agreement with the Secretary to purchase.

(b) PRICE.—The price of the land conveyed under subsection (a) shall be equal to the appraised value of the land, as determined by the Secretary.

(c) LAND DESCRIPTION.—

(1) IN GENERAL.—The land referred to in subsection (a) is the approximately 16,500 acres of land in Big Horn County and Washakie County, Wyoming, as depicted on the map entitled “Westside Project” and dated May 9, 2000.

(2) ADJUSTMENT.—On agreement of the Secretary and Westside, acreage may be added to or subtracted from the land to be conveyed as necessary to satisfy any mitigation requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) USE OF PROCEEDS.—Proceeds of the sale of land under subsection (a) shall be deposited in a special account in the Treasury of the United States and shall be available to the Secretary of the Interior, without further Act of appropriation, for the acquisition of land and interests in land in the Worland District of the Bureau

of Land Management in the State of Wyoming that will benefit public recreation, public access, fish and wildlife habitat, or cultural resources.

PURPOSE OF THE MEASURE

The purpose of S. 610 is to provide for the conveyance of approximately 16,500 acres to the Westside Irrigation District, in Washakie and Big Horn Counties in Wyoming.

BACKGROUND AND NEED

The proposed conveyance will allow the Westside Irrigation District to make use of unallocated water rights to irrigate a portion of the acquired parcel. Part of the parcel will be placed in conservation buffer zones, rights-of-way and wildlife habitat. The remainder of these lands will be sold as farmland parcels. The project, when fully implemented would create new jobs and a positive economic impact in the community. The District will also help support additional staff with the Wyoming Game and Fish for mitigation assistance.

The District will pay fair market value for the surface land. The mineral rights would not transfer. Proceeds raised from the land sales will be used by the Secretary of the Interior for the acquisition of land in the Worland District of the Bureau of Land Management for the purpose of enhancing public recreation, increasing public access, enhancing fish and wildlife habitat and improving cultural resources.

LEGISLATIVE HISTORY

S. 610 was introduced by Senators Enzi and Thomas on March 15, 1999. The Subcommittee on Forests and Public Land Management held a hearing on S. 610 on October 14, 1999. At the business meeting on June 7, 2000, the Committee on Energy and Natural Resources ordered S. 610 reported favorably with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on June 7, 2000, by a voice vote of a quorum present recommends that the Senate pass S. 610 if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 610, the Committee adopted an amendment in the nature of a substitute. The amendment addresses concerns made by the Administration. The amendment requires an environmental analysis prior to the conveyance; reduces the acreage conveyed; corrects the legal description in the bill and map reference; and allows the Secretary and the Westside Irrigation District to add or subtract lands if necessary to satisfy the mitigation requirements of the NEPA analysis.

SECTION-BY-SECTION ANALYSIS

Section 1(a) requires the Secretary of the Interior to convey the property described in subsection (c) after completion of an environmental analysis. The Committee intends that in implementing sec-

tion 1(a), the Westside Irrigation District and the Bureau of Land Management, acting on behalf of the Secretary, will enter into a formal written agreement regarding the purchase of the lands described in the bill. The Committee expects that the agreement will include requirements for preparation of an environmental analysis (EA) document pursuant to the National Environmental Policy Act prior to land transfer; cultural and paleontological resource inventory and mitigation clearances; assessments of public access needs; and reservations to include in land patents; water augmentation agreements with the Wyoming Game and Fish Department and the Bureau of Reclamation necessary to mitigate fisheries and riparian values in the Big Horn River; and development of mitigation measures for other wildlife and threatened and endangered species management. The agreement should also include provisions for financial assistance from the Westside Irrigation District in the costs for preparation of the EA, the cultural and paleontological resource inventories, and the cost of appraisal for the lands conveyed.

Subsection (b) requires the price of the land conveyed to be the appraised value as determined by the Secretary of the Interior.

Subsection (c) describes the property to be conveyed as depicted on the map entitled "Westside Project" dated May 9, 2000. The subsection also allows the Secretary of the Interior and the Westside Irrigation District to adjust acreage to satisfy any NEPA mitigation requirements.

Subsection (d) authorizes the proceeds of the sale to be used for the acquisition of land or interest in land in the Worland District of the Bureau of Land Management to benefit certain resources.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office (CBO) estimate of the costs of this measure follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 20, 2000.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 610, a bill to direct the Secretary of the Interior to convey certain land under the jurisdiction of the Bureau of Land Management in Washakie County and Big Horn County, Wyoming, to the Westside Irrigation District, Wyoming, and for other purposes.

If you wish further details on the estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

STEVEN M. LIEBERMAN
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 610.—A bill to direct the Secretary of the Interior to convey certain land under the jurisdiction of the Bureau of Land Management in Washakie County and Big Horn County, Wyoming, to the Westside Irrigation District, Wyoming, and for other purposes

CBO estimates that enacting S. 610 would not significantly affect the federal budget. We estimate that enacting the bill would increase both offsetting receipts (a credit against direct spending) and the spending of such receipts; therefore, pay-as-you-go procedures would apply, but we expect that the net impact on direct spending would not be significant in any year. S. 610 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no significant impact on the budgets of state, local, or tribal governments.

S. 610 would direct the Secretary of the Interior to convey to the Westside Irrigation District all right, title, and interest (exclusive of mineral interests) in about 16,500 acres of land located in two counties in Wyoming and currently under the administration of the Bureau of Land Management (BLM). The bill would require the agency to complete an environmental analysis prior to the conveyance, and would direct the Secretary to convey the lands in return for a cash payment equal to their appraised value. According to BLM, those lands probably would not be sold under current law. They generate less than \$2,000 annually in offsetting receipts from grazing fees, and the agency does not expect them to generate significant receipts over the next ten years.

Based on information from BLM, we estimate that agency would spend about \$300,000 during fiscal year 2001 to complete an environmental analysis of the lands, assuming the availability of appropriated funds. We estimate that the lands would be conveyed during fiscal year 2002 in exchange for a payment of about \$1 million. Under S. 610, the Secretary could retain and spend, without further appropriation, any proceeds from the sale to acquire other lands and interests to benefit public recreation, access to public land, fish and wildlife habitat, or cultural resources. As a result, CBO estimates that additional direct spending over the 2002–2003 period would offset the additional income from the land sale, and that the net impact on direct spending would not be significant in either year.

The CBO staff contact is Megan Carroll. This estimate was approved by Robert A. Sunshine, 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. 610.

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. 610, as ordered reported.

EXECUTIVE COMMUNICATIONS

On June 7, 2000 the Committee on Energy and Natural Resources requested legislative reports from the Secretary of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 610. These reports had not been received at the time the report on S. 610 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Bureau of Reclamation at the Subcommittee hearing follows:

STATEMENT OF CARSON (PETE) CULP, ASSISTANT DIRECTOR
OF MINERALS, REALTY AND RESOURCE PROTECTION, BU-
REAU OF LAND MANAGEMENT

Mr. Chairman and members of the subcommittee, I appreciate the opportunity to appear before you to testify on S. 610, the conveyance of certain Bureau of Land Management (BLM) lands in Washakie and Big Horn Counties, Wyoming to the Westside Irrigation District. The Bureau does not support S. 610, the land conveyance in Wyoming.

I first wish to discuss S. 610, and the conveyance of certain BLM lands to the Westside Irrigation District in Wyoming. This bill would enable the Westside Irrigation District to purchase approximately 39,000 acres of BLM lands northwest of Worland, Wyoming which would then be converted to agricultural production through the use of overhead sprinkler irrigation systems. The surface rights would be purchased at fair market value and the monies derived from the sale of these public lands would be used by the BLM to acquire other private parcels having resource values.

The Bureau has concerns with S. 610. First, the BLM opposes land disposals without appropriate planning, NEPA analysis, and public participation. The BLM Grass Creek Resource Management Plan does not identify these lands for disposal. Additionally, no environmental analysis has been completed for the proposal and there has been very little public involvement.

Also, the legal description as identified in the legislation is very vague and requires clarification. After a review of BLM land status records, the total acreage was determined to be approximately 39,000 acres. As I mentioned, the purpose of this legislation is to permit the Westside Irrigation District to add 39,000 acres of arable farming units to their district. Arable is a term used for lands that are suitable for cultivation. However, in 1986 the Bureau of Reclamation completed a classification study and found that there were not 39,000 acres of arable lands, but only 7,500 acres suitable for cultivation in the area. The remaining acres were classified to be non-arable.

In addition to the discrepancy in the arable lands, a partial cultural inventory on approximately 2,000 acres within the proposed sale area, yielded 38 sites that were evaluated as eligible for the National Register of Historic Places. An additional 471 cultural sites were found but were not evaluated for eligibility for the National Register. Six of the eligible sites are believed to have been occupied by Paleo-Indians.

The area is also valuable for paleontological research. For example, it includes many localities where scientifically significant vertebrate fossils have been collected and studied. These fossils, and the layers of rock where they occur, document the history of life in North America. In addition, approximately 15,000 acres have been identified as crucial mule deer and antelope winter range and agricultural development of the area could potentially affect fisheries in the Bighorn River.

The area is rich in mineral resources as well. Yet, despite this mineral value the bill states that all rights, title, and interest of the United States be transferred. This would include the mineral estate, including the three oil and gas fields (including 22 producing wells), gravel deposits used for construction and road building, and a number of rights-of-way are also located within the affected area and easements the BLM holds for access to public lands. Inasmuch as the BLM wishes to support opportunities for rural development in Wyoming, we cannot support the divestiture of these resource rich lands from public ownership.

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. 610, as ordered reported.