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107TH CONGRESS, 2d Session } HOUSE OF REPRESENTATIVES { REPORT 107–705

RED ROCK CANYON NATIONAL CONSERVATION AREA PROTECTION AND ENHANCEMENT ACT OF 2002

OCTOBER 1, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HANSEN, from the Committee on Resources, submitted the following

R E P O R T

[To accompany H.R. 4141]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4141) to authorize the acquisition by exchange of lands for inclusion in the Red Rock Canyon National Conservation Area, Clark County, Nevada, and for other purposes, 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 "Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002".

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) CORPORATION.—The term "Corporation" means The Howard Hughes Corporation, an affiliate of the Rouse Company, with its principal place of business at 10000 West Charleston Boulevard, Las Vegas, Nevada.

(2) RED ROCK.—The term "Red Rock" means the Red Rock Canyon National Conservation Area, consisting of approximately 195,780 acres of public lands in Clark County, Nevada, specially designated for protection in the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.), as depicted on the Red Rock Map.

(3) RED ROCK MAP.—The term "Red Rock Map" means the map entitled "H.R. 4141—Boundary Modifications", dated July 1, 2002.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Red Rock is a natural resource of major significance to the people of Nevada and the United States. It must be protected in its natural state for the

enjoyment of future generations of Nevadans and Americans, and enhanced wherever possible.

(2) In 1998, the Congress enacted the Southern Nevada Public Lands Management Act of 1998 (Public Law 105–263), which provided among other things for the protection and enhancement of Red Rock.

(3) The Corporation owns much of the private land on Red Rock's eastern boundary, and is engaged in developing a large-scale master-planned community.

(4) Included in the Corporation's land holdings are 1,071 acres of high-ground lands at the eastern edge of Red Rock. These lands were intended to be included in Red Rock, but to date have not been acquired by the United States. The protection of this high-ground acreage would preserve an important element of the western Las Vegas Valley view-shed.

(5) The Corporation has volunteered to forgo development of the high-ground lands, and proposes that the United States acquire title to the lands so that they can be preserved in perpetuity to protect and expand Red Rock.

(b) PURPOSES.—This Act has the following purposes:

(1) To accomplish an exchange of lands between the United States and the Corporation that would transfer certain high-ground lands to the United States in exchange for the transfer of other lands of approximately equal value to the Corporation.

(2) To protect Red Rock and to expand its boundaries as contemplated by the Bureau of Land Management, as depicted on the Red Rock Map.

(3) To further fulfill the purposes of the Southern Nevada Public Lands Management Act of 1998 and the Red Rock Canyon National Conservation Area Establishment Act of 1990.

SEC. 4. RED ROCK LAND EXCHANGE.

(a) ACQUISITION REQUIREMENT.—If the Corporation offers to convey to the United States all right, title, and interest in and to the approximately 1,082 acres of non-federal land owned by the Corporation and depicted on the Red Rock Map as "OFFERED LANDS TO BE INCORPORATED INTO NCA", the Secretary shall accept such offer on behalf of the United States, and not later than 90 days after the date of the offer, except as otherwise provided in this Act, shall make the following conveyances:

(1) To the Corporation, the approximately 998 acres of Federal lands depicted on the Red Rock Map as "BLM LANDS SELECTED FOR EXCHANGE".

(2) To Clark County, Nevada, the approximately 1,221 acres of Federal lands depicted on the Red Rock Map as "BLM LANDS FOR CLARK COUNTY PARK".

(b) SIMULTANEOUS CONVEYANCES.—Title to the private property and the Federal property to be conveyed pursuant to this section shall be conveyed at the same time.

(c) MAP.—The Secretary shall keep the Red Rock Map on file and available for public inspection in the Las Vegas District Office of the Bureau of Land Management in Nevada, and the State Office of the Bureau of Land Management, Reno, Nevada.

(d) CONDITIONS—

(1) HAZARDOUS MATERIALS.—As a condition of the conveyance under subsection (a)(1), the Secretary shall require that the Corporation be responsible for removal of and remediation related to any hazardous materials that are present on the property conveyed to the United States under subsection (a).

(2) SURVEY.—As a condition of the conveyance under subsection (a)(1), the Secretary shall require that not later than 90 days after the date of the offer referred to in subsection (a), the Corporation shall provide a metes and bounds survey, that is acceptable to the Corporation, Clark County, and the Secretary, of the common boundary between the parcels of land to be conveyed under subsection (a).

(3) LANDS CONVEYED TO CLARK COUNTY.—As a condition of the conveyance under subsection (a)(2), the Secretary shall require that—

(A) the lands transferred to Clark County by the United States must be held in perpetuity by the County for use only as a public park or as part of a public regional trail system; and

(B) if the County attempts to transfer the lands or to undertake a use on the lands that is inconsistent with their preservation and use as described in subparagraph (A), such lands shall revert to the United States.

SEC. 5. STATUS AND MANAGEMENT OF LANDS.

(a) INCLUSION OF BASIN LANDS.—Upon the date of the enactment of this Act, the Secretary shall administer the lands depicted on the Red Rock Map as "Flood Control Detention Basin Lands", exclusive of those lands used for the Corps of Engi-

neers R–4 Detention Basin, as part of Red Rock and in accordance with the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.), the Southern Nevada Public Lands Management Act of 1998 (Public Law 105–263), and all other applicable laws.

(b) INCLUSION OF ACQUIRED LANDS; MAPS REFLECTING BOUNDARY ADJUSTMENTS.—Upon acquisition by the United States of lands under this Act, the Secretary shall—

(1) administer the lands as part of Red Rock and in accordance with the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.), the Southern Nevada Public Lands Management Act of 1998 (Public Law 105–263), and all other applicable laws; and

(2) create new maps showing the boundaries of Red Rock as modified by or pursuant to this Act, and make such maps available for review at the Las Vegas District Office of the Bureau of Land Management and the State Office of the Bureau of Land Management, Reno, Nevada.

(c) CONFORMING AMENDMENT.—Section 3(a)(2) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc–1(a)(2)) is amended by inserting before the period the following: ", and such additional areas as are included in the conservation area pursuant to the Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002".

SEC. 6. GENERAL PROVISIONS.

(a) REVIEW OF APPRAISAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall complete a review of the appraisal entitled "Complete Self-Contained Appraisal Red Rock Exchange, Las Vegas, Nevada", completed on or about June 3, 2002. The difference in appraisal values shall be reimbursed to the Secretary by the Corporation in accordance with the Southern Nevada Public Lands Management Act of 1998.

(b) VALID EXISTING RIGHTS.—The land exchange under this Act shall be subject to valid existing rights. Each party to which property is conveyed under this Act shall succeed to the rights and obligations of the conveying party with respect to any lease, right-of-way, permit, or other valid existing right to which the property is subject.

(c) TECHNICAL CORRECTIONS.—Nothing in this Act prohibits the parties to the conveyances under this Act from agreeing to the correction of technical errors or omissions in the Red Rock Map.

(d) WITHDRAWAL OF AFFECTED LANDS.—To the extent not already accomplished under law or administrative action, the Secretary shall withdraw from operation of the public land and mining laws, subject to valid existing rights—

(1) those Federal lands acquired by the United States under this Act; and

(2) those Federal lands already owned by the United States on the date of the enactment of this Act but included within the Red Rock National Conservation Area boundaries by this Act.

PURPOSE OF THE BILL

The purpose of H.R. 4141 is to authorize the acquisition by exchange of lands for inclusion in the Red Rock Canyon National Conservation Area, Clark County, Nevada.

BACKGROUND AND NEED FOR LEGISLATION

In 1998, Congress passed the Southern Nevada Public Land Management Act (PL 105–263), which provides for the orderly disposal of federal lands in Clark County, Nevada, and for the acquisition of environmentally sensitive lands in the State of Nevada.

H.R. 4141, which represents the orderly disposal of Federal land, would promulgate the exchange of 1,071 acres of private, environmentally sensitive, mountainous land on the eastern border of the Red Rock Canyon National Conservation Area (195,780 acres) held by the Howard Hughes Corporation for 998 acres of Bureau of Land Management (BLM) lands use to expand its Summerlin master-planned community. The land Hughes Corporation would convey includes archeological, scenic and recreational values. Furthermore, the public lands to be acquired by the Hughes Corporation

run contiguous with the Hughes corporate land holdings as well as lie within the disposal boundaries identified by the Southern Nevada Public Land Management Act for development. Therefore, this exchange would be a fulfillment of the stated goals of the Southern Nevada Public Land Management Act and, more importantly, would place more land into the public domain than it would remove. In addition, the bill calls for 1,250 acres of BLM land behind the proposed development site to go to Clark County for a county park.

COMMITTEE ACTION

H.R. 4141 was introduced on April 10, 2002, by Congressman Jim Gibbons (R–NV). The bill was referred to the Committee on Resources and within the Committee to the Subcommittee on National Parks, Recreation, and Public Lands. On June 6, 2002, the Subcommittee on National Parks, Recreation, and Public Lands held a hearing on the bill. On September 12, 2002, the Full Resources Committee met to consider the bill. Congressman Gibbons offered an amendment in the nature of a substitute that made the following changes to the original text: (1) Specified the acreage to be exchanged; (2) required the Hughes Corporation to be responsible for the removal and remediation of any hazardous material on their lands; (3) required the Secretary of the Interior to review the appraisal cited in the bill and mandated that the Hughes Corporation pay the difference of the appraisal; (4) directed the Secretary of the Interior to administer retention basins, and (5) corrected the map name and number cited in the bill. The amendment was agreed to by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

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 Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, 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 tax expenditures. According to the Congressional Budget Office, the government may receive offsetting receipts of amounts up to $300,000. These amounts could be used to acquire nonfederal lands and make payments to local governments.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to authorize the acquisition by exchange of lands for inclusion in the Red Rock Canyon National Conservation Area, Clark County, Nevada.

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:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 27, 2002.

Hon. JAMES V. HANSEN,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4141, the Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002.

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

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 4141—Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002

CBO estimates that H.R. 4141 would not significantly affect the federal budget. The bill could affect direct spending (including offsetting receipts); therefore, pay-as-you-go procedures would apply, but we estimate that any such effects would be negligible. H.R. 4141 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

H.R. 4141 would direct the Secretary of the Interior to convey to a private corporation about 998 acres of federal lands in Nevada in exchange for approximately 1,082 acres of lands owned by that corporation. If the federal lands are worth more than the private lands, the corporation would pay the difference. Based on preliminary information from the Bureau of Land Management (BLM) regarding the estimated value of the lands to be exchanged, CBO estimates that offsetting receipts from such payments would total $300,000. Under H.R. 4141, such amounts could be used in the same year they are received to acquire nonfederal lands and make payments to local governments. Hence, we estimate that com-

pleting this land exchange would have a negligible impact on direct spending.

H.R. 4141 also would direct the Secretary to convey to Clark County, Nevada, without consideration, roughly 1,221 acres of federal lands located within that county. In addition, the bill would add certain federal lands to the Red Rock Canyon National Conservation Area and would withdraw those lands from programs to develop geothermal and mineral resources. According to BLM, none of the lands affected by these provisions generate significant receipts, and they are not expected to do so over the next 10 years. Hence, CBO estimates that enacting those provisions would not significantly affect offsetting receipts or direct spending.

The CBO staff contact for this estimate is Megan Carroll. This estimate was approved by Robert A. Sunshine, Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

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

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

SECTION 3 OF THE RED ROCK CANYON NATIONAL CONSERVATION AREA ESTABLISHMENT ACT OF 1990

SEC. 3. ESTABLISHMENT OF THE CONSERVATION AREA.

(a) IN GENERAL.—(1) * * *

(2) The conservation areas shall consist of approximately 195,780 acres as generally depicted on the map entitled "Red Rock Canyon National Conservation Area Administrative Boundary Modification", dated August 8, 1996, *and such additional areas as are included in the conservation area pursuant to the Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002.*

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