

AMENDING THE MESQUITE LANDS ACT OF 1986 TO FACILITATE IMPLEMENTATION OF A MULTISPECIES HABITAT CONSERVATION PLAN FOR THE VIRGIN RIVER IN CLARK COUNTY, NEVADA

MAY 10, 2012.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 2745]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2745) to amend the Mesquite Lands Act of 1986 to facilitate implementation of a multispecies habitat conservation plan for the Virgin River in Clark County, Nevada, 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. AMENDMENT TO THE MESQUITE LANDS ACT OF 1986.**

Section 3 of Public Law 99-548 (commonly known as the “Mesquite Lands Act of 1986”) is amended—

(1) in subsection (d)(3)(B), by inserting “and implementation” after “development”;

(2) in subsection (e)—

(A) in paragraph (1)(A), by striking “For a period of 12 years after the date of the enactment of this Act,” and inserting “Until November 29, 2020,”;

(B) in paragraph (3), by striking “Not later than 10 years after the date of the enactment of this subsection,” and inserting “Not later than November 29, 2019,”; and

(C) in paragraph (5), by striking “the date that is 12 years after the date of the enactment of this subsection,” and inserting “the date specified in paragraph (1)(A),”; and

(3) in subsection (f)—

(A) in paragraph (1), by striking “Not later than 1 year after the date of the enactment of this subsection, the” and inserting “The”;

(B) in paragraph (2), by inserting after subparagraph (C) the following:

“(D) The approximately 218 acres of land depicted as ‘Hiatus’ on the map titled ‘Mesquite Airport Conveyance’ and dated January, 13, 2012.”;

(C) in paragraph (3), by striking “until the date that is 12 years after the date of the enactment of this subsection,” and inserting “until November 29, 2020,”;

(D) by amending paragraph (4) to read as follows:

“(4) REVERTER.—If the land conveyed pursuant to paragraph (1) is not used by the city as an airport or for another public purpose, it shall revert to the United States, at the option of the Secretary, except that the city shall have an exclusive right to purchase such land.”; and

(E) by redesignating paragraph (5) as paragraph (7) and by inserting after paragraph (4) the following:

“(5) RIGHT TO PURCHASE LAND.—Until November 29, 2020, the City of Mesquite, Nevada, subject to all appropriate environmental reviews, including compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et. seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et. seq.), shall have the exclusive right to purchase the parcels of public land described in paragraph (2) that the Secretary did not convey to the city pursuant to paragraph (1).

“(6) PROCEEDS OF SALE.—The proceeds of the sale of each parcel under this subsection shall be deposited into the General Treasury.”.

#### PURPOSE OF THE BILL

The purpose of H.R. 2745, as ordered reported, is to amend the Mesquite Lands Act of 1986 to facilitate implementation of a multi-species habitat conservation plan for the Virgin River in Clark County, Nevada.

#### BACKGROUND AND NEED FOR LEGISLATION

The Mesquite Lands Act of 1986 (Public Law 99–548) was amended by Section 121 of Public Law 104–208 to afford the City of Mesquite, Nevada, the exclusive right to purchase certain federal land under the control of the Bureau of Land Management (BLM), at not less than fair market value for a period of 12 years. On October 24, 1996, these public lands were segregated from all forms of appropriation under the public land laws, including the general mining laws, until September 29, 2008. The Mesquite Lands Act was further amended by Public Law 106–113 on November 29, 1999, with the specific purpose of conveying land to construct a commercial airport and to provide more room for commercial and industrial development to meet future demands for its citizens and a rapidly growing tourism industry. The 1999 amendment provided a timeframe of 12 years for the conveyance to occur. The lands were subject to all existing rights but were withdrawn from all forms of entry and appropriation under the public land laws, including the mining laws, and from operation of the mineral leasing and geothermal leasing laws for a period of 12 years after the date of the enactment. The authority to obtain the parcels of land made available by the Mesquite Lands Act expired in November 2011.

H.R. 2745 will amend the Mesquite Lands Act of 1986 to extend the timeline for Mesquite to purchase select parcels and identify land to be conveyed for use as an airport in Clark County, Nevada. This will provide more room for commercial and industrial development to meet future demands for its citizens and a rapidly growing tourism industry. The bill also corrects an inadvertent omission in the Clark County Conservation of Public Land and Natural Resources Act of 2002 (Public Law 107–282) to allow for the implementation of the Virgin River Habitat Conservation and Recovery Plan and the Hydrologic Monitoring and Mitigation Plan.

During full committee consideration of the bill, the Committee approved an amendment offered by Congressman Rob Bishop (R-UT) that strikes an expired timing requirement that expired after one year of its original enactment, corrects another date reference to mirror the extensions to November 29, 2020 in the underlying bill and accounts for an approximately 218 acre parcel situated between the other parcels under consideration by Mesquite, Nevada, which BLM noted has been inadvertently overlooked due to survey errors. Finally, the amendment allowed for Mesquite to purchase, at fair market value, any of the acreage identified for the potential airport conveyance that is not ultimately used for an airport. Any proceeds from the sale of this acreage will be deposited into the General Treasury.

To address a potential and unintended cost stemming from the diversion of proceeds from the sale of land in Subsection E (Fifth area), the committee will offer an amendment when the bill is considered by the House to direct the proceeds to the General Treasury. Identical language was used to direct the proceeds from potential lands sales in Subsection F (Sixth area) and will ensure that there is no cost to the taxpayer. This corrective amendment will eliminate the direct spending identified in the Congressional Budget Office score of the bill.

#### COMMITTEE ACTION

H.R. 2745 was introduced on August 1, 2011, by Congressman Joseph Heck (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 December 2, 2011, the Subcommittee held a hearing on the bill. On February 29, 2012, the Full Natural Resources Committee met to consider the bill. The Subcommittee on National Parks, Forests and Public Lands was discharged by unanimous consent. Congressman Rob Bishop (R-UT) offered amendment designated .965 to the bill; the amendment was approved by voice vote. The bill, as amended, was then adopted and ordered favorably reported to the House of Representatives by voice vote.

#### 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.

#### COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) 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)(2)(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. 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 Com-

mittee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

*H.R. 2745—A bill to amend the Mesquite Lands Act of 1986 to facilitate implementation of a multispecies habitat conservation plan for the Virgin River in Clark County, Nevada*

H.R. 2745 would give the city of Mesquite, Nevada, the exclusive right to purchase certain federal lands administered by the Bureau of Land Management (BLM). The bill also would authorize BLM and the U.S. Fish and Wildlife Service (USFWS) to spend a portion of the proceeds from those sales on specified activities. Based on information provided by the affected agencies, CBO estimates that implementing H.R. 2745 would increase direct spending by \$3 million over the 2012–2022 period; therefore, pay-as-you-go procedures apply. Enacting H.R. 2745 would not affect revenues.

Based on information from BLM and the city of Mesquite, CBO expects that, under current law, the affected lands would be sold under the Federal Land Policy and Management Act (FLPMA). CBO estimates that proceeds from those sales would total about \$7 million over the 2012–2020 period. Under FLPMA, 96 percent of all proceeds from lands sales are deposited in the U.S. Treasury. Because H.R. 2745 would authorize BLM and USFWS to spend roughly half of those proceeds, without further appropriation, to pay for certain administrative costs and to implement a multispecies habitat conservation plan in Clark County, Nevada, CBO estimates that implementing the bill would increase direct spending.

H.R. 2745 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.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of 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, credit authority, or an increase or decrease in revenues or tax expenditures. Based on information provided by the affected agencies, CBO estimates that implementing H.R. 2745 would increase direct spending by \$3 million over the 2012–2022 period; therefore, pay-as-you-go procedures apply. Enacting H.R. 2745 would not affect revenues.

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, as ordered reported, is to amend the Mesquite Lands Act of 1986 to facilitate implementation of a multispecies habitat conservation plan for the Virgin River in Clark County, Nevada.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates as defined under Public Law 104-4.

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 (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 3 OF THE ACT OF OCTOBER 27, 1986

(Public Law 99-548)

AN ACT To transfer certain real property to the City of Mesquite, Nevada.

SEC. 3. NOTIFICATION AND SALE PERIODS.

(a) \* \* \*

\* \* \* \* \*

(d) FOURTH AREA.—(1) \* \* \*

\* \* \* \* \*

(3) USE OF PROCEEDS.—The proceeds of the sale of each parcel completed after the date of enactment of this subsection shall be deposited in the special account established under section 4(e)(1)(C) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2345); and shall be available for use by the Secretary—

(A) \* \* \*

(B) for the development and implementation of a multi-species habitat conservation plan for the Virgin River in Clark County, Nevada, including any associated groundwater monitoring plan; and

\* \* \* \* \*

(e) FIFTH AREA.—

(1) RIGHT TO PURCHASE.—

(A) IN GENERAL.—[For a period of 12 years after the date of the enactment of this Act,] *Until November 29, 2020*, the City of Mesquite, Nevada, subject to all appropriate environmental reviews, including compliance with the National Environmental Policy Act and the Endangered Species Act, shall have the exclusive right to purchase the parcels of public land described in paragraph (2).

\* \* \* \* \*

(3) NOTIFICATION.—[Not later than 10 years after the date of the enactment of this subsection,] *Not later than November 29, 2019*, the city shall notify the Secretary which of the parcels of public land described in paragraph (2) the city intends to purchase.

\* \* \* \* \*

(5) WITHDRAWAL.—Subject to valid existing rights, until [the date that is 12 years after the date of the enactment of this subsection,] *the date specified in paragraph (1)(A)*, the parcels of public land described in paragraph (2) are withdrawn from all forms of entry and appropriation under the public land laws, including the mining laws, and from operation of the mineral leasing and geothermal leasing laws.

\* \* \* \* \*

(f) SIXTH AREA.—

(1) IN GENERAL.—[Not later than 1 year after the date of the enactment of this subsection, the] *The* Secretary shall convey to the City of Mesquite, Nevada, in accordance with section 47125 of title 49, United States Code, and subject to all appropriate environmental reviews, including compliance with the National Environmental Policy Act and the Endangered Species Act, up to 2,560 acres of public land to be selected by the city from among the parcels of land described in paragraph (2).

(2) LAND DESCRIPTION.—The parcels of land referred to in paragraph (1) are as follows:

(A) \* \* \*

\* \* \* \* \*

*(D) The approximately 218 acres of land depicted as “Hitatus” on the map titled “Mesquite Airport Conveyance” and dated January 13, 2012.*

(3) WITHDRAWAL.—Subject to valid existing rights, [until the date that is 12 years after the date of the enactment of this subsection,] *until November 29, 2020*, the parcels of public land described in paragraph (2) are withdrawn from all forms of entry and appropriation under the public land laws, including the mining laws, and from operation of the mineral leasing and geothermal leasing laws.

[(4) If the land conveyed pursuant to this section is not utilized by the city as an airport, it shall revert to the United States, at the option of the Secretary.]

*(4) REVERTER.—If the land conveyed pursuant to paragraph (1) is not used by the city as an airport or for another public purpose, it shall revert to the United States, at the option of the Secretary, except that the city shall have an exclusive right to purchase such land.*

*(5) RIGHT TO PURCHASE LAND.—Until November 29, 2020, the City of Mesquite, Nevada, subject to all appropriate environmental reviews, including compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et. seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et. seq.), shall have the exclusive right to purchase the parcels of public land described in paragraph (2) that the Secretary did not convey to the city pursuant to paragraph (1).*

*(6) PROCEEDS OF SALE.—The proceeds of the sale of each parcel under this subsection shall be deposited into the General Treasury.*

[(5)] (7) Nothing in this section shall preclude the Secretary from applying appropriate terms and conditions as identified

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by the required environmental review to any conveyance made under this section.

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