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SAN JUAN COUNTY FEDERAL LAND CONVEYANCE

JUNE 27, 2013.—Ordered to be printed

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

R E P O R T

[To accompany S. 609]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 609) to authorize the Secretary of the interior to convey certain Federal land in San Juan County, New Mexico, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 1, line 9, strike “Federal land” and insert “Federal surface estate”.
2. On page 2, line 19, insert “and subject to valid existing rights” after “prescribe.”
3. On page, after line 16, add the following:
 - (f) WITHDRAWAL.—Subject to valid existing rights, the Federal land is withdrawn from—
 - (1) location, entry, and patent under the mining laws; and
 - (2) disposition under all laws relating to mineral and geothermal leasing or mineral materials.

LEGISLATIVE HISTORY

S. 609 was introduced by Senators Udall of New Mexico and Heinrich on March 19, 2013. A hearing was held on S. 609 by the Subcommittee on Public Lands, Forests, and Mining on April 25, 2013. At its business meeting on May 16, 2013, the Committee ordered S. 609 favorably reported with amendments.

In the 112th Congress, identical legislation was introduced by Senators Udall of New Mexico and Bingaman on June 28, 2012.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on May 16, 2013, by a voice vote of a quorum present, recommends that the Senate pass S. 507, if amended as described herein.

COMMITTEE AMENDMENT

During the consideration of S. 609, the Committee adopted an amendment to address recommendation made by the Department of the Interior in its testimony. The amendment specifies that the conveyance under the bill would be limited to only the surface estate and not the subsurface mineral estate; provides for a withdrawal of the mineral estate from the mining laws and the mineral leasing laws; and specifies that both the conveyance and the withdrawal are subject to valid existing rights.

SECTION-BY-SECTION ANALYSIS

Section 1 provides for the short title, the “San Juan County Federal Land Conveyance Act”.

Section 2 defines key terms used in the bill.

Section 3(a) authorizes the Secretary of the Interior to convey by sale certain Federal land in San Juan County on the request of the landowner, subject to valid existing rights and such terms and conditions as the Secretary may prescribe.

Subsection (b)(1) clarifies that the acres and legal description of the Federal land conveyed under subsection (a) is to be determined and approved by the Secretary of the Interior.

Subsection (b)(2) requires the administrative costs of the conveyance to be paid by the landowner.

Subsection (c) directs that the landowner shall pay an amount equal to the fair market value of the Federal land conveyed, which will be determined by an appraisal.

Subsection (d) requires the Secretary to deposit the proceeds of the conveyance of Federal lands in a special account in the Treasury for the acquisition of land or interests in land from willing sellers for resource protection that is consistent with the purposes for which the Bald Eagle Area of Critical Environmental Concern in the State was established.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 609—San Juan County Federal Land Conveyance Act

S. 609 would authorize the Bureau of Land Management (BLM) to sell certain federal lands located in San Juan County, New Mexico. Based on information provided by the agency, CBO estimates that implementing the bill would have a negligible impact on the federal budget. Enacting the legislation would increase offsetting receipts and associated direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that those changes would have no significant impact on future budget deficits. Enacting S. 609 would not affect revenues.

S. 609 would authorize BLM to sell 19 acres of federal land to private landowners. The bill would require the landowners to pay fair market value for the property. Based on information provided by BLM, CBO estimates that proceeds from the sale of the affected lands would increase offsetting receipts by about \$300,000. Under the bill, BLM would be authorized to retain and spend those proceeds, without further appropriation, to acquire other lands. In addition, the bill would require the landowners to pay for the required survey and to cover any administrative costs associated with the sale.

S. 609 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.

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. 609.

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. 609, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 609, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by the Bureau of Land Management April 25, 2013, Subcommittee on Public Lands, Forests, and Mining hearing on S. 609 follows:

STATEMENT OF JAMIE CONNELL, ACTING DEPUTY DIRECTOR,
BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE
INTERIOR

Thank you for inviting the Department of the Interior to testify on S. 609, the San Juan Federal Land Conveyance Act. The Bureau of Land Management (BLM) supports S. 609, which provides for the sale of approximately 19 acres of public land in northern San Juan County, New Mexico to a private party at fair market value. We support this legislation, but would like the opportunity to work with the sponsor and the committee on a few modifications to S. 609.

Background

In 1998, the BLM settled a lawsuit regarding protection of the southwestern willow flycatcher in New Mexico. In order to protect potential flycatcher habitat, the BLM agreed to exclude livestock grazing from riparian areas in New Mexico by fencing BLM-managed river tracts identified as having suitable flycatcher habitat. While surveying lands for fencing under the settlement agreement, the BLM discovered as many as 20 different cases of trespass on BLM-administered public lands in New Mexico.

These trespass cases included a 14-acre trespass into the Bald Eagle Area of Critical Environmental Concern (ACEC) north of Aztec, N.M. In 1999, the Blancett family, who were actively farming these acres, was cited for trespass on approximately 19 acres of public lands. Despite resolution of many of the identified trespass cases—including cases with the Blancetts' neighbors to the north and south—BLM negotiation efforts with the Blancetts were unsuccessful.

Following failed negotiations and an IBLA mediation attempt, the Blancetts sued the Department of the Interior in U.S. District Court in 2010. On February 27, 2012, a settlement was reached between the Blancetts and the Department of the Interior, and the case was dismissed with prejudice. Under that settlement agreement, the Blancetts have two years to obtain a legislative solution to address the trespass situation. If a legislative solution is not obtained by March 5, 2014, or substantial progress toward that solution is not made by that time, the BLM will offer to sell the approximately two-acre parcel with the family residence to the Blancetts and the BLM may immediately begin to fence and reclaim the remaining 17 acres for bald eagle habitat, which will remain in Federal ownership.

S. 609

S. 609 provides for the direct sale of approximately 19 acres of BLM-managed public land in San Juan County, New Mexico, to the Blancetts pursuant to a 2012 settlement agreement. The bill requires the Secretary of the Interior to sell at fair market value approximately 19-acres of public land to the Blancetts upon their request, as outlined in the settlement.

Under the bill, fair market value is to be determined by an appraisal conducted using the Uniform Appraisal Standards for Federal Land Acquisitions and other standard provisions. Additionally, the bill requires the Blancetts to pay administrative costs associated with the sale, including the cost of the survey and appraisal. The BLM supports these provisions.

The bill requires the transfer to the Blancetts of all right, title, and interest of the Federal government of these public lands. As written, this would include the subsurface mineral estate. The BLM notes that there are two producing oil wells on Federal land adjacent to the lands proposed for conveyance, and the Federal mineral lease asso-

ciated with these wells includes the lands proposed for transfer. In order to address the existing lease and producing wells, the BLM recommends that the Federal government retain ownership of the mineral estate, and that the legislation provide for a withdrawal of the mineral estate from the mining laws and mineral leasing laws. Furthermore, we recommend that both the conveyance and the withdrawal be subject to valid existing rights.

Under the bill, all proceeds from the sale are to be deposited into a special account in the Treasury for use in the acquisition of land or interests in land to further the protective purposes of the Bald Eagle ACEC or for resource protection consistent with the purposes of the ACEC. Because these funds are derived from the sale of lands, the BLM believes these funds should be used solely to acquire other lands or interest in lands.

The BLM supports this bill as it represents an opportunity to resolve a longstanding trespass issue and facilitates a reasonable and practicable conveyance of the lands to the Blancetts that is consistent with the 2012 settlement agreement.

Conclusion

Thank you again for the opportunity to testify in support of the San Juan Federal Land Conveyance Act. I would be glad to answer your questions.

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. 609, as ordered reported.

