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SENATE

{ REPORT
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ORACLE CABINS CONVEYANCE ACT OF 2018

NOVEMBER 15, 2018.—Ordered to be printed

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

R E P O R T

[To accompany S. 2062]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2062) to require the Secretary of Agriculture to convey at market value certain National Forest System land in the State of Arizona, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendment is as follows:

On page 5, strike lines 3 through 12 and insert the following:

(f) PROCEEDS FROM THE SALE OF LAND.—Any payment received by the Secretary from the sale of property under this Act shall be deposited in the fund established under Public Law 90–171 (commonly known as the “Sisk Act”) (16 U.S.C. 484a) and shall be available to the Secretary until expended, without further appropriation, for the acquisition of inholdings in national forests in the State of Arizona.

PURPOSE

The purpose of S. 2062 is to require the Secretary of Agriculture (Secretary) to convey, for fair market value, certain National Forest System land in the State of Arizona covered by special use residence permits to the holders of those permits.

BACKGROUND AND NEED

S. 2062 authorizes the conveyance of certain National Forest lands covered by three separate residence special use permits to the holders of those permits. The residences were initially permitted by the U.S. Forest Service under the Forest Service Recreation Residence Program (RPP), which was established by Con-

gress in 1915 to encourage family recreation in the National Forests. Under the program, a permittee is allowed use a parcel of National Forest land for construction of a cabin, which is owned by the permittee. The permittee pays an annual fee to the Forest Service for the use of the land the cabin sits on. There are approximately 14,000 cabins, on 114 Nations Forests, in the RPP program.

When one of the permittees covered by the legislation tried to sell their cabin in 2008 they asked the Forest Service for permission to approve the sale. At that time, the Forest Service indicated it would not approve the sale, as their cabin was now classified as a “residence, privately owned building” under a special use permit, which is being phased out over time.

In total, three families with cabins near Oracle have been reclassified by the Forest Service as “residence, privately owned building.” These special use permits, which were transitioned from the RPP, now expire in 2028, with no opportunity to transfer to a new owner or heir. The current cabin owners have expressed an interest in purchasing the properties from the Forest Service so that they may either sell or pass their cabins on to future generations. S. 2062 directs the Forest Service to allow the permittees to purchase the small parcels of lands under and surrounding their residences, without which they will be forced to demolish or physically relocate their homes. The three parcels total approximately 9.5 acres.

LEGISLATIVE HISTORY

Senator Flake introduced S. 2062 on November 2, 2017. The Subcommittee on Public Lands, Forests, and Mining held a hearing on the bill on February 7, 2018.

The Committee on Energy and Natural Resources met in open business session on October 2, 2018, and ordered S. 2560 favorably reported, as amended.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on October 2, 2018, by a majority voice vote of a quorum present, recommends that the Senate pass S. 2062, if amended as described herein.

COMMITTEE AMENDMENT

During its consideration of S. 2062, the Committee adopted an amendment to require any proceeds from property sales made pursuant to the Act to be deposited in the fund established by the Sisk Act (Public Law 90–171) and be made available for acquisition of inholdings in national forests in Arizona, rather than directing the proceeds to be used for hazardous fuel reduction projects in the State.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title

Section 1 sets forth the short title.

Sec. 2. Definitions

Section 2 defines key terms.

Sec. 3. Sale of land

Subsection (a) directs the Secretary to sell and quitclaim all right, title, and interest of the United States in and to the three parcels of land, as described on the map, “Coronado National Forest Land Conveyance Act of 2017” to the permittees on those parcels. The sale is subject to valid existing rights and is to occur not later than 90 days after the request of a permittee.

Subsection (b) authorizes the Secretary to set such terms and conditions on the sale deemed in the public interest.

Subsection (c) requires the sale of a property to be for cash equal to the fair market value of the property, as determined by an appraisal.

Subsection (d) directs the Secretary to complete an appraisal for each property, which will include the value of any appurtenant easements and excludes the value of any private improvements made by a permittee of the property before the date of the appraisal. This subsection also specifies the standards for an appraisal.

Subsection (e) directs the Secretary to pay for the cost of the property’s conveyance and appraisal.

Subsection (f) requires that proceeds from the sale of the land be deposited in the fund established by the Sisk Act and be made available for acquisition of inholdings in national forests in Arizona without further appropriation.

Subsection (g) requires the Secretary to file maps and legal descriptions of each parcel as soon as practicable; specifies that the filed maps and legal descriptions shall have the force of law; and requires the filed maps and legal descriptions to be publically available in the Coronado National Forest Supervisor’s office.

COST AND BUDGETARY CONSIDERATIONS

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

Three cabins in the Coronado National Forest in Arizona are privately owned under special use permits from the Forest Service that will expire in 2028. S. 2062 would direct the Forest Service to convey the parcels of land that are associated with the cabins (roughly 10 acres in total) at fair market value if those owners wish to purchase the parcels. CBO expects that under the bill, the owners would submit a request to buy the available land.

S. 2062 would require the Forest Service to pay any costs associated with the conveyances. Using information from the agency, CBO estimates that those costs would be less than \$500,000; such spending would be subject to the availability of appropriated funds.

Under current law, the permit holders pay annual fees to the Forest Service, which are deposited into the Treasury. CBO estimates that those fees, which are recorded in the budget as offsetting receipts (or reductions in direct spending), will total less than \$100,000 over the 2019–2028 period. Because the Forest Service has no plans to renew the permits when they expire, CBO expects that the government will not collect any such fees after 2028.

Under S. 2062, proceeds from the sale of the parcels would be available without further appropriation to the Forest Service to acquire inholdings (privately held land surrounded by federal land)

in national forests in Arizona. Those sale proceeds would be recorded in the budget as offsetting receipts and would be subsequently spent. If the Forest Service conveys the parcels in the next few years under the bill, the annual permit fees would no longer be collected. On net, CBO estimates, enacting S. 2062 would result in an insignificant increase in direct spending (from the forgone permit fees) over the 2019–2028 period; therefore, pay-as-you-go procedures apply. The bill would not affect revenues.

CBO estimates that enacting S. 2062 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

S. 2062 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Janani Shankaran. The estimate was reviewed by H. Samuel Papenfuss, 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. 2062. 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. 2062, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 2062, as ordered 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 Department of Agriculture at the February 7, 2018, hearing on S. 2062 follows:

STATEMENT OF GLENN CASAMASSA, ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM, U.S. FOREST SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE

Chairman Lee, Ranking Member Wyden, members of the Subcommittee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) regarding S. 2062—Oracle Cabins Conveyance Act of 2017. I am Glenn Casamassa, Associate Deputy Chief for the National Forest System (NFS), USDA Forest Service.

S. 2062 would require the Secretary of Agriculture to convey three parcels of NFS land on the Coronado National Forest in Arizona totaling approximately 9.5 acres to persons, or their heirs, executors, or assigns, who hold valid permits for use of the properties.

The USDA Forest Service has attempted to determine the history of how these three cabins came to be built on the Coronado National Forest, but has been unable to definitively determine their origin. However, we can confirm they are not located within an area designated for recreational cabins, which would allow for long-term ownership of improvements and occupation on a seasonal basis only. Because they do not fall within the category of a recreational residence and because they are being used as full-time residences, the type of special use permit that has been issued for each of these three cabins are for “residence, privately owned building”, with a current expiration date of 2028. We have explored a number of potential solutions within our existing authorities. However, each has downsides for either the permit holder or for balanced and equitable management of the National Forest System.

Consequently, we appreciate Senator Flake’s concerns about this situation and his efforts to find a workable outcome for the individuals involved and the USDA Forest Service. The Forest Service is committed to finding a mutually agreeable solution and intends to continue working with the individual owners toward that end, within the parameters of applicable agency policy and regulations.

Thank you again for the opportunity to testify on this bill and I look forward to your questions at the appropriate time.

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 the bill as ordered reported.

