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SENATE

{ REPORT
114-216

TO REQUIRE THE SECRETARY OF THE INTERIOR TO TAKE LAND INTO TRUST FOR CERTAIN INDIAN TRIBES, AND FOR OTHER PURPOSES

FEBRUARY 29, 2016.—Ordered to be printed

Mr. BARRASSO, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 1436]

The Committee on Indian Affairs, to which was referred the bill (S. 1436) to require the Secretary of the Interior to take land into trust for certain Indian tribes, and for other purposes, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

PURPOSE

The purpose of S. 1436 is to require the Secretary of the Interior (Secretary) to convey approximately 71,055 acres from the Bureau of Land Management (BLM) to five federally recognized tribes in Nevada, to be held in trust by the United States for the benefit of those tribes, and to convey approximately 82 acres from the Forest Service to a federally recognized tribe in Nevada.

NEED FOR LEGISLATION

The bill, S. 1436, is needed to complete a land exchange between the certain federal agencies for the benefit of federally recognized tribes in Nevada.

BACKGROUND

Many Nevada tribes need additional lands for housing tribal members, to take advantage of economic development opportunities, and to promote cultural activities. The bill, S. 1436, would transfer over approximately 71,000 acres of federal lands into trust for the benefit of several Nevada tribes.

The Fort McDermitt Paiute and Shoshone Reservation is located on the Nevada and Oregon border. Land was allotted to Indians under the General Allotment Act of 1887.¹ On January 17, 1936, approximately 20,414 acres was set aside for the tribe.²

Currently, their reservation consists of 16,354 acres in Nevada and 18,828 acres in Oregon.³ This legislation would place an additional 19,094 acres of currently BLM-managed lands into trust, held by the Secretary for the benefit of the Fort McDermitt Paiute and Shoshone Tribes. The Tribes need the land to reduce fractionated jurisdiction⁴ and plan to use the land for watershed management, community expansion, and economic development, including possibly expanding a currently owned fuel station.

The Shoshone-Paiute Tribes of the Duck Valley Reservation are situated on the Nevada and Idaho border near Owyhee, Nevada. The Tribes' reservation was established by Executive Order in 1877⁵ and was expanded by Executive Orders in 1886⁶ and 1910.⁷ Currently the tribe's reservation is 289,819 acres.⁸ This legislation would direct approximately 82 more acres of U.S. Forest Service land to be held in trust by the Secretary for the benefit of the Shoshone-Paiute Tribes of the Duck Valley Reservation. The land parcel is located three miles south of the Tribes' current reservation near Mountain City, Nevada and was abandoned by the Forest Service in 2008 when the District headquarters were moved to Elko, Nevada.⁹ The land has 11 outbuildings that will be transferred to the Shoshone-Paiute Tribes of the Duck Valley Reservation. The Tribes plan to use the land and its structures to provide local housing for law enforcement, health care, and other professionals.¹⁰

In 1871, a military reservation, Camp McGarry, was abandoned and transferred to the Department of the Interior.¹¹ The Summit Lake Paiute Tribe's reservation, located in northwest Nevada, was originally 5,026 acres and established by Executive Order in 1913.¹² Additional acres were added to the reservation on March 3, 1928¹³ and June 10, 1959,¹⁴ and tribal allotments were taken into trust and became part of the reservation on December 15, 1971.¹⁵ Currently, the reservation is approximately 12,573 acres.¹⁶ This legislation would transfer an additional 941 acres of BLM-

¹ General Allotment Act, 24 Stat. 388, (1887).

² 49 Stat. 1094. (1936).

³ Nevada Indian Commission. Accessed on January 8, 2016 at: <http://nic.nv.gov/directory>.

⁴ Statement of Chairman of the Reno Sparks Indian Colony in Nevada Arlan D. Melendez. Hearing before the Senate Committee on Indian Affairs. 114th Cong. (October 7, 2015).

⁵ Executive Order Issued by Rutherford B. Hayes (April 16, 1877).

⁶ Executive Order Issued by Grover Cleveland (May 4, 1886).

⁷ Executive Order Issued by William Taft (July 1, 1910).

⁸ Shoshone-Paiute Tribal Website Accessed on January 8, 2016 at: <http://www.shopaitribes.org/culture/culture/45-history.html>.

⁹ Statement of Chairman of the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation Lindsey Manning. Hearing before the Senate Committee on Indian Affairs. 114th Cong. (October 7, 2015).

¹⁰ Statement of Chairman of the Shoshone-Paiute Tribes of the Duck Valley Indian Reservation Lindsey Manning. Hearing before the Senate Committee on Indian Affairs. 114th Cong. (October 7, 2015).

¹¹ Statement of Chairwoman of Summit Lake Paiute Tribe Randi Desoto. Hearing before the Senate Committee on Indian Affairs. 114th Cong. (October 7, 2015).

¹² Executive Order Issued by William Taft (January 14, 1913).

¹³ 45 Stat. 160, (1928).

¹⁴ Pub. L. No. 86-37, 73 Stat. 64, (1959).

¹⁵ Pub. L. No. 92-186, 85 Stat. 643, (1971).

¹⁶ Summit Lake Tribal website accessed on January 8, 2016 at: http://summitlaketribe.org/About_Us.html.

managed land into trust, held by the Secretary for the benefit of the Summit Lake Paiute Tribe. The Tribe plans to use the land for fish and lake management of Summit Lake.¹⁷ The BLM lands that would be transferred to the Tribe are currently accessible to the public via a public road. This road, which crosses the Tribe's existing reservation, provides access to a private lakeside property. When the BLM land is placed into trust for the Tribe, the public road will remain public. The road is maintained by the Tribe through federal highway funds which require the Tribe to keep the road open to the public. There will be no change in access for the private landowner as a result of this land transfer.

On April 13, 1917, Congress authorized the purchase of approximately 20 acres for urban Indians in Nevada.¹⁸ Currently, the Reno-Sparks Indian Colony is a 28-acre colony located between Reno, Nevada and Sparks, Nevada.¹⁹ The Tribe also has an approximately 1,920 acre reservation in Hungry Valley, Nevada, which is located north of Reno.²⁰ Currently, the Tribe's total reservation land is approximately 2,056 acres.²¹ This legislation would place 13,434 acres of BLM-managed land into trust, for the benefit of the Reno-Sparks Indian Colony. The transferred land would become part of the Hungry Valley Reservation. The Tribe plans to use the land as a buffer zone between recreational activities and other tribal lands. The expansion lands will also provide for the preservation of cultural resources, be utilized for traditional religious practices, and present non-motorized outdoor recreation opportunities.

The Pyramid Lake Paiute Tribe is located 35 miles northeast of Reno, Nevada, in Washoe, Lyon, and Storey Counties. In 1859, land was set aside for the Northern Paiute by the Bureau of Indian Affairs and was surveyed in 1865.²² The reservation was formally established by Executive Order on March 23, 1874.²³ Currently, the reservation is approximately 475,000 acres, of which approximately 112,000 acres cover the surface of Pyramid Lake.²⁴ This legislation would place 6,357 acres of BLM-managed land into trust, held by the Secretary for the benefit of the Pyramid Lake Paiute Tribe. The Tribe plans to use the land to manage the Pyramid Lake watershed.²⁵ The Tribe intends to preserve existing public outdoor recreation opportunities on these lands where appropriate.

The Duckwater Shoshone Tribe is located in central Nevada, in Nye County. An approximately 3,273 acre reservation was created on November 13, 1940 under section 5 of the Indian Reorganization Act²⁶ for the Duckwater Shoshone Tribe. On December 22, 1943, approximately 398.76 acres were purchased for the Tribe by the

¹⁷ Statement of Chairwoman of Summit Lake Paiute Tribe Randi Desoto. Hearing before the Senate Committee on Indian Affairs. 114th Cong. (October 7, 2015).

¹⁸ Act of May 18, 39 Stat. 143 (1916).

¹⁹ Statement of Chairman of the Reno Sparks Indian Colony in Nevada Arlan D. Melendez. Hearing before the Senate Committee on Indian Affairs. 114th Cong. (October 7, 2015).

²⁰ Pub. L. No. 99-389, 100 Stat. 828, (1986).

²¹ Nevada Indian Commission. Accessed on January 8, 2016 at: Nic.nv.gov.

²² Statement of the Chairman of the Pyramid Lake Paiute Tribal Council Vinton Hawley. Hearing before the Senate Committee on Indian Affairs. 114th Cong. (October 7, 2015).

²³ Executive Order. Issued by Ulysses S. Grant, (March 23, 1871).

²⁴ Nevada Indian Commission. Accessed on January 8, 2016 at: Nic.nv.gov.

²⁵ Statement of the Chairman of the Pyramid Lake Paiute Tribal Council Vinton Hawley. Hearing before the Senate Committee on Indian Affairs. 114th Cong. (October 7, 2015).

²⁶ Statement of Chairman of the Duckwater Shoshone Tribe Perline Thompson. Hearing before the Senate Committee on Indian Affairs. 114th Cong. (October 7, 2015).

Department of the Interior.²⁷ On January 27, 1955, approximately 142 acres were purchased from Nye County for the Duckwater Shoshone Tribe.²⁸ Currently, the Tribe's reservation is approximately 3,854.52 acres.²⁹ The legislation would place approximately 31,229 acres of BLM-managed land into trust for the benefit of the Duckwater Shoshone Tribe. The Tribe plans to use the land for agriculture operations, energy projects, and housing and facility development.³⁰ The Duckwater Shoshone Tribe intends to maintain watering facilities for wild horses and preserve existing trailing use for grazing.³¹

LEGISLATIVE HISTORY

The bill, S. 1436, was introduced on May 21, 2015 by Senator Reid and Senator Heller. On October 7, 2015, the Senate Committee on Indian Affairs held a legislative hearing on the bill, at which the Associate Deputy Chief of the National Forest System Forest Service testified in support with recommendations for the provisions managed by the Forest Service in the bill. On October 21, 2015, the Committee held a business meeting on the bill, which was amended, in the nature of a substitute, and reported favorably. A House companion bill that is identical to the Senate introduced version was introduced on June 11, 2015 by Representatives Amodei, Hardy, and Heck. The House Committee on Natural Resources Subcommittee on Indian, Insular and Alaska Native Affairs held a hearing on the bill on July 15, 2015. No further action to date has been taken on this bill.

In the 113th Congress, S. 2480 was introduced on June 17, 2014, by Senators Reid and Heller. The bill was referred to the Committee on Indian Affairs. On July 9, 2014, the Committee held a hearing on the bill. On July 30, 2014, the Committee held a business meeting to consider the bill. One amendment was offered and adopted, and the bill, as amended, was ordered to be reported favorably to the Senate by voice vote.

A House companion bill, H.R. 2455, was introduced by Representatives Amodei, Titus, and Young on June 20, 2013. The House Committee on Natural Resources Subcommittee on Indian and Alaska Native Affairs held a hearing on July 23, 2013. The House Committee on Natural Resources held a business meeting on June 19, 2014 and ordered the bill to be reported, as amended, by unanimous consent. The bill passed the House by voice vote without objection on December 1, 2014. The bill was received in the Senate on December 2, 2014. No further action was taken on the bill.

SUMMARY OF THE AMENDMENT

Chairman Barrasso filed an amendment in the nature of a substitute at the October 21, 2015, business meeting. The amendment made the following changes:

²⁷ Act of June 28, 55 Stat. 303, (1941).

²⁸ Nevada Indian Commission. Accessed on January 8, 2016 at: Nic.nv.gov.

²⁹ Tiller's Guide 2015–2014, Bureau of Indian Affairs Realty Division.

³⁰ Statement of Chairman of the Duckwater Shoshone Tribe Perline Thompson. Hearing before the Senate Committee on Indian Affairs. 114th Cong. (October 7, 2015).

³¹ Letter from Perline Thompson, Chairman of the Duckwater Shoshone Tribe, to Senator Harry Reid, Senator Dean Heller, and Congressman Crescent Hardy, (October 18, 2015) (on file at the Senate Committee on Indian Affairs).

Shoshone Paiute conveyance

The bill, S. 1436, allows for an easement on the conveyed land for a road for use by the Forest Service to access the National Forest System.

The Secretary of Agriculture will convey any existing facilities or improvements on the transferred 82 acre parcel of land to the Shoshone Paiute Tribes of the Duck Valley Indian Reservation based on the testimony of the Forest Service at the October 7, 2015 legislative hearing held by Committee.

Duckwater Shoshone Tribe conveyance

The amendment updated the map used for the land conveyance for the Duckwater Shoshone Tribe and altered the land description to reflect the changes from the updated map. The result is a reduction of 40 acres from the total conveyance. The land is private land and cannot be transferred from the BLM to the tribe.

Public land orders

Any public land order that restricts the transfer of land to an Indian tribe will be revoked. The revocation of public land orders is needed to convey land to Indian tribes.

This language was added to clarify that the transfer to the Shoshone Paiute Tribes of the Duck Valley Reservation would not be subject to a 1959 public land order that was never acted upon.

SECTION-BY-SECTION ANALYSIS OF BILL AS ORDERED REPORTED

Sec. 1. Short title

The Act may be cited as the ‘Nevada Native Nations Land Act’.

Sec. 2. Definition of Secretary

Section 2 defines the ‘Secretary’ as the Secretary of the Interior.

Sec. 3. Conveyance of land to be held in trust for certain indian tribes

Section 3(a) states that approximately 19,094 acres of land federally administered by the BLM is to be taken into trust for the Fort McDermitt Paiute and Shoshone Tribe. The land is identified as ‘Reservation Expansion Lands’ on a map titled, ‘Fort McDermitt Indian Reservation Expansion Act’ that is dated February 21, 2013 and is on file and available for public inspection in the appropriate offices of the BLM.

Section 3(b) states that approximately 82 acres of land federally administered by the Forest Service is to be taken into trust for the Shoshone Paiute Tribe. The land is identified as ‘Proposed Acquisition Site’ on a map titled, ‘Mountain City Administrative Site Proposed Acquisition’ that is dated July 29, 2013 and is on file and available for public inspection in the appropriate offices of the Forest Service.

Section 3(c) states that approximately 941 acres of land federally administered by the BLM is to be taken into trust for the Summit Lake Paiute Tribe. The land is identified as ‘Reservation Conveyance Lands’ on a map titled, ‘Summit Lake Indian Reservation Conveyance’ that is dated February 28, 2013 and is on file and

available for public inspection in the appropriate offices of the BLM.

Section 3(d) states that approximately 13,434 acres of land federally administered by the BLM is to be taken into trust for the Reno-Sparks Indian Colony. The land is identified as 'RSIC Amended Boundary' on a map titled, 'Reno-Sparks Indian Colony Expansion' that is dated June 11, 2014 and is on file and available for public inspection in the appropriate offices of the BLM.

Section 3(e) states that approximately 6,357 acres of land federally administered by the BLM is to be taken into trust for the Pyramid Lake Paiute Tribe. The land is identified as 'Reservation Expansion Lands' on a map titled, 'Pyramid Lake Indian Reservation Expansion' that is dated April 13, 2015 and is on file and available for public inspection in the appropriate offices of the BLM.

Section 3(f) Section 3 (a) states that approximately 31,229 acres of land federally administered by the BLM is to be taken into trust for the Duckwater Shoshone Tribe. The land is identified as 'Reservation Expansion Lands' on a map titled, 'Duckwater Reservation Expansion' that is dated October 15, 2015 and is on file and available for public inspection in the appropriate offices of the BLM.

Section 3(g) revokes any public land order, to the extent necessary, to permit the conveyance of land to an Indian tribe under section 3 of the bill.

Sec. 4. Administration

Section 4 provides for the survey of the boundary lines of the land taken into trust for the six federally recognized tribes under this bill and prohibits the use of those lands for Class II gaming or Class III gaming under the Indian Gaming Regulatory Act.³² The section also provides that the Secretary, in consultation with the Tribes, may carry out fuel reduction and other landscape restoration activities on the lands taken into trust. The sponsors of the bill are committed to working with the administration on any remaining concerns.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, October 21, 2015, was prepared for S. 1436:

NOVEMBER 5, 2015.

Hon. JOHN BARRASSO,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1436, the Nevada Native Nations Land Act.

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

Sincerely,

KEITH HALL.

Enclosure.

³² 25 U.S.C. 2701 et seq.

S. 1436—Nevada Native Nations Lands Act

S. 1436 would authorize the following land conveyances between the federal government and various tribes in Nevada:

- 19,094 acres of land managed by the Bureau of Land Management (BLM) to be held in trust for the benefit of the Fort McDermitt Paiute and Shoshone Tribe;
- 82 acres of land managed by the United States Forest Service to be held in trust for the benefit of the Shoshone Paiute Tribes of the Duck Valley Indian Reservation;
- 941 acres of land managed by BLM to be held in trust for the benefit of the Summit Lake Paiute Tribe;
- 13,434 acres of land managed by BLM to be held in trust for the benefit of the Reno-Sparks Indian Colony;
- 6,357 acres of land managed by BLM to be held in trust for the benefit of the Pyramid Lake Paiute Tribe; and
- 31,229 acres of land managed by BLM to be held in trust for the benefit of the Duckwater Shoshone Tribe.

Based on information from the affected agencies, CBO estimates that implementing the legislation would have no significant effect on the federal budget. Under current law, CBO expects that programs to develop federally owned natural resources on some of the lands to be conveyed will generate receipts, particularly from grazing permits. Thus, CBO estimates that conveying those lands would reduce offsetting receipts (which are treated as increases in direct spending); however, we estimate that such losses would be insignificant.

Because enacting S. 1436 would increase direct spending, pay-as-you-go procedures apply. Enacting S. 1436 would not affect revenues. CBO estimates that enacting S. 1436 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the next four consecutive 10-year periods beginning in 2026. S. 1436 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Megan Carroll. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 1436.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 1436 will have a minimal impact on regulatory or paperwork requirements.

CHANGES IN EXISTING LAW (CORDON RULE)

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee finds that the enactment of S. 1436 will not make any changes in existing law.

