

TO VALIDATE CERTAIN CONVEYANCES IN THE CITY OF
TULARE, TULARE COUNTY, CALIFORNIA

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JULY 8, 1997.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

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Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 960]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 960) to validate certain conveyances in the City of Tulare, Tulare County, California, 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 out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. FINDINGS.

The Congress finds that:

(1) It is in the Federal Government's interest to facilitate local development of jobs in areas of high unemployment.

(2) Railroad interests in rights-of-way prevent local communities from obtaining clear title to property for development unless the city also obtains the Federal reversionary interest in those rights-of-way.

(3) For development purposes, in order to secure needed financing, the City of Tulare Redevelopment Agency requires clear title to certain parcels of land within the city's business corridor that are part of a railroad right-of-way.

SEC. 2. TULARE CONVEYANCE.

(a) IN GENERAL.—Subject to subsections (c) and (d), all conveyances to the Redevelopment Agency of the City of Tulare, California, of lands described in subsection (b), heretofore or hereafter, made directly by the Southern Pacific Transportation Company, or its successors, are hereby validated to the extent that the conveyances

would be legal or valid if all right, title, and interest of the United States, except minerals, were held by the Southern Pacific Transportation Company.

(b) LANDS DESCRIBED.—The lands referred to in subsection (a) are the parcels shown on the map entitled “Tulare Redevelopment Agency-Railroad Parcels Proposed to be Acquired”, dated 5/29/97, that formed part of a railroad right-of-way granted to the Southern Pacific Railroad Company, or its successors, agents, or assigns, by the Federal Government (including the right-of-way approved by an Act of Congress on July 27, 1866). The map referred to in this subsection shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management.

(c) PRESERVATION OF EXISTING RIGHTS OF ACCESS.—Nothing in this section shall impair any existing rights of access in favor of the public or any owner of adjacent lands over, under or across the lands which are referred to in subsection (a).

(d) MINERALS.—The United States disclaims any and all right of surface entry to the mineral estate of lands described in subsection (b).

PURPOSE OF THE BILL

The purpose of H.R. 960 is to validate certain conveyances in the City of Tulare, Tulare County, California.

BACKGROUND AND NEED FOR LEGISLATION

From 1862 to 1871, Congress passed the Pacific Railroad Acts to promote a system of railroads in the western United States. The Acts granted the Southern Pacific Railroad Company a right-of-way along the route where the railroad tracks were eventually laid. In Tulare, California, this right of way measures 220 feet on both sides of the tracks, and falls within the city’s Downtown Redevelopment Area.

The courts have characterized this right-of-way grant as a “limited fee made on an implied condition of reverter” if the Railroad ceased to use the right-of-way for the purpose for which it was granted. If the Railroad ever forfeited or abandoned the land for railroad purposes, ownership of the land would revert to the United States. The Bureau of Land Management (BLM) would then manage these areas.

Over 100 years have passed since the Railroad started using this right-of-way and its successor Union Pacific still runs over 30 trains per day through the city. However, because the Railroad is technically unable to pass clear title to the land within the right-of-way, development along the tracks is practically impossible. Consequently, the City of Tulare has a barren strip of weeds, sand and abandoned buildings 200 feet wide on both sides of the tracks.

H.R. 960 will facilitate redevelopment of the City’s downtown area by effectively transferring the federal reversionary interest in 12 parcels of property (including one the City already attempted to purchase) from the Southern Pacific Railroad to the Tulare Redevelopment Agency so that the Agency can pursue a ten-year redevelopment program. Commercial development currently stops at the eastern border of the parcels addressed by the bill and the railroad right of way. To proceed with financing, marketing and other redevelopment activities, the Agency must have the ability to acquire title to all of these parcels without the encumbrance of the federal reversionary interest. The presence of a federal reversionary interest in these lands prevents the Agency from dealing with the current railroad to carry out its redevelopment plans.

The lands addressed by the bill are not attractive to the BLM, which has indicated that it would seek to transfer them to the City

if the parcels were to return to full federal control. The Committee recommends that the reversionary interest covered by the bill be transferred as the bill allows, so that the Agency and Railroad can begin discussion of ways to facilitate development without the federal reversionary interest standing in the way of any options either party may wish to discuss.

COMMITTEE ACTION

H.R. 960 was introduced on March 5, 1997, by Congressman William Thomas (R-CA). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks and Public Lands. On May 20, 1997, the Subcommittee held a hearing on H.R. 960, where the Administration testified in support of H.R. 960 if certain changes were made to the bill as introduced. On June 19, 1997, the Subcommittee met to mark up H.R. 960. An amendment in the nature of substitute was offered by Congressman James V. Hansen (R-UT) which eliminated any waivers of other laws, clarified the language that will transfer the reversionary interest to the Tulare Redevelopment Agency, and preserved the mineral interest ownership with the Federal Government. The amendment was adopted by voice vote and the bill, as amended, was then ordered favorably reported to the Full Committee. On June 25, 1997, the Full Resources Committee met to consider H.R. 960. A technical amendment to correct the date of the referenced map was offered by Congressman George Radanovich (R-CA), and adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X 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 and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact H.R. 960.

COST OF THE LEGISLATION

Clause 7(a) 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 H.R. 960. However, clause 7(d) 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 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 960 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, if H.R. 960 is enacted, the bill could affect revenues but that the likelihood of any revenue to the U.S. Treasury from the sale of the land underlying the rights-of-way transferred under this bill "is small."

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 960.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI 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 H.R. 960 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 3, 1997.

Hon. DON YOUNG,
*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. 960, a bill to validate certain conveyances in the city of Tulare, Tulare County, California, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Victoria V. Heid (for federal costs) and Marjorie Miller (for the state and local impact).

Sincerely,

PAUL VAN DE WATER
(For June E. O'Neill, Director).

Enclosure.

H.R. 960—A bill to validate certain conveyances in the city of Tulare, Tulare County, California, and for other purposes

H.R. 960 would give the Southern Pacific Transportation Company or its successors the right to convey title to certain lands in the city of Tulare, California, that form part of a right-of-way previously granted to the railroad by the federal government. Hence, the bill would validate land conveyances where the federal government owns the underlying title and the railroad controls the right-of-way. The bill would apply to both past and future conveyances. CBO estimates that enacting H.R. 960 would have little or no impact on the federal budget.

If the railroad ceased to operate on the right-of-way, then land comprising the right-of-way would revert to federal ownership. Ac-

ording to the Bureau of Land Management (BLM), if the agency were to receive the land it would have no interest in retaining ownership and would either sell it, exchange it, or transfer it to local government. BLM estimates that the portion of the right-of-way that would be affected by H.R. 960 has a market value of about \$300,000.

Enacting H.R. 960 would affect direct spending if property that would have reverted to the federal government and been sold under current law is instead not sold because of conveyances made pursuant to this bill. Because the bill could affect direct spending, pay-as-you-go procedures would apply. But the likelihood of any income to the Treasury from sale of the affected property over the next 10 years is small.

H.R. 960 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would impose no costs on state, local, or tribal governments. The bill would benefit the city of Tulare by clearing the title to one parcel of land already purchased by the city and allowing the Tulare Redevelopment Agency to purchase and develop several additional parcels.

The CBO staff contacts for this estimate are Victoria V. Heid (for federal costs) and Marjorie Miller (for the state and local impact). This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 960 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 960 would make no changes in existing law.

ADDITIONAL VIEWS

The United States gave Southern Pacific Transportation Company an interest in the lands that are the subject of H.R. 960 through a right-of-way granted under the Pacific Railroads Act of July 1, 1862, ch. 120, 12 Stat. 489, as amended. Section 2 of the Act granted a 400 foot-wide right-of-way through the public lands of the United States "For the construction of a railroad and telegraph line."

In *Northern Pac. Ry v. Townsend*, 190 U.S. 267, 271 (1903), the right-of-way grant was characterized as a "limited fee made on an implied condition of reverter" in the event that the railroad ceased to use the right-of-way for the purpose for which it was granted. Under these conditions, if the railroad were to cease use of the right-of-way, and a forfeiture were declared by the Congress or a judicial proceeding initiated by the Attorney General of the United States, the railroad would lose its interest in the land, which would revert to the federal government.

The National Trails System Act (16 U.S.C. 1241) provides that "* * * all right, title, interest, and estate of the United States in all rights-of-way * * * shall remain in the United States upon the abandonment of forfeiture * * *". This Act establishes a mechanism by which the reverted land can be used for recreation trails. H.R. 960 would preempt the National Trails System Act by eliminating the reversionary interest.

The City of Tulare wants to buy the right-of-way land alongside the railroad to sell or lease through the City of Tulare Redevelopment Agency. The railroad, however, does not own the land (the taxpayers do), and so the title is not cleared to convey. One parcel in the City of Tulare has already been sold by the railroad despite the fact it did not own the land. This legislation would validate title to the parcel already sold as well as prospectively extinguishing federal reversion rights on all lands within the redevelopment plan area, thereby giving Southern Pacific Transportation Company clear title to sell the lands and to profit from their disposal.

In the past Congress has validated some limited conveyances in situations where the new owner purchased the land in good faith without realizing there was a reversion interest to the federal government. Parcels approved in the past have been of little monetary value and were mostly used for private housing. This legislation will mark the first time that Congress prospectively validated parcels in this manner before they were sold and before any party was misled about the title of land which it had purchased.

Enactment of this legislation will be the first time the United States relinquishes its interest in railroad rights-of-way lands for the purpose of community redevelopment. By all accounts the City of Tulare is in need of revitalization. Extinguishing federal rights to this land may help the redevelopment of the area. How much

profit Southern Pacific Transportation Company realizes from selling the federal interest will presumably be determined through price negotiations with the City of Tulare.

It should be noted that this legislation responds to a specific and unique set of circumstances in the City of Tulare. In this instance, the federal government has determined that if the railroad right of way lands were to revert, the federal government would not be interested in managing the lands. Passage of this legislation should not be perceived as endorsing the concept of the federal government giving away public rights without just compensation.

GEORGE MILLER.
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