

EXCHANGE OF CERTAIN MINERAL INTERESTS IN BILLINGS
COUNTY, NORTH DAKOTA

MARCH 30, 1998.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

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

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 2574]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2574) to consolidate certain mineral interests in the National Grasslands in Billings county, North Dakota, through the exchange of Federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 2574 is to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection.

BACKGROUND AND NEED FOR LEGISLATION

For over a decade, the United States Forest Service and Burlington Resources Oil & Gas Company (formerly Meridian Oil, Inc.) have been considering a possible exchange of oil and gas rights in the Bullion Butte and Ponderosa Pine areas of the Little Missouri National Grasslands in North Dakota. The land ownership pattern

in those areas is very fragmented, with both federal and privately owned mineral rights and federal surface and private subsurface estates. Under North Dakota law, the right to develop the subsurface minerals is dominant to the right to manage the surface area.

This lack of unity between the surface and subsurface estates and intermixture of public and private mineral rights have complicated both effective management of surface resource values and efficient extraction of minerals. For the Forest Service, an exchange to consolidate mineral ownerships provides an opportunity to protect bighorn sheep and their habitat and the viewshed of the Little Missouri River corridor. For Burlington, an exchange will facilitate exploration for and development of oil and gas by reducing the conflict such activities would have with other sensitive Grasslands resources.

The Forest Service and Burlington reached an agreement last year on an exchange of certain federal and private mineral rights and the imposition of certain constraints on Burlington oil and gas activities. The Forest Service and Burlington entered into a Memorandum of Understanding (MOU), that will take effect after the exchange is completed, regarding oil and gas exploration and development methods to further increase protection of environmentally sensitive Forest Service lands.

The MOU, adopted by reference in the legislation, obligates Burlington to make its best efforts to locate any oil and gas facilities and installations outside the $\frac{1}{4}$ mile view corridor on either side of the stretch of the Little Missouri River being considered for designation as a Wild and Scenic River and to access certain other property adjacent to an important bighorn sheep lambing area only by directional drilling.

Senator Byron L. Dorgan (D-ND) introduced S. 750 on May 15, 1997, to implement the agreement. H.R. 2574 is identical to S. 750 as it was passed by the Senate by unanimous consent on October 6, 1997.

H.R. 2574 directs the Secretary of Agriculture to convey 8,796 acres of federal oil and gas rights to Burlington Resources Oil & Gas Company in exchange for Burlington's mineral rights in approximately 9,582 acres, all in Billings County, North Dakota, within 45 days of enactment. The legislation also authorizes the exchange of any other private mineral rights in the same area for federal mineral rights within six months of enactment.

The bill recognizes that the mineral interests to be exchanged with Burlington shall be of equal value, and requires that the other mineral rights to be transferred shall be of approximately equal value; it specifies that all activities of Burlington, its successors and assigns, shall be subject to the terms of the MOU which was executed by the Forest Service and Burlington in November 1995; and it assures that no provision of the legislation can be interpreted to limit, restrict, or otherwise affect the application of the principle of multiple use in any area of the Little Missouri National Grasslands.

COMMITTEE ACTION

H.R. 2574 was introduced on September 29, 1997, by Congressman Earl Pomeroy (D-ND). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Forests and Forest Health and the Subcommittee on Energy and Mineral Resources. On October 28, 1997, the Forests and Forest Health Subcommittee held a hearing on H.R. 2574, where the Administration testified in support of the bill. On November 4, 1997, the Forests and Forest Health Subcommittee met to mark up H.R. 2574. No amendments were offered and the bill was ordered favorably reported to the Full Committee by voice vote. On March 11, 1998, the Full Resources Committee met to consider H.R. 2574. The Subcommittee on Energy and Mineral Resources was discharged from further consideration of the bill. No amendments were offered and the bill 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. 2574.

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. 2574. 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. 2574 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, enactment of H.R. 2574 could reduce offsetting receipts to the federal government, but these receipts would total less than \$500,000 a year.

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. 2574.

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. 2574 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 23, 1998.

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. 2574, a bill to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes.

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

Sincerely,

JUNE E. O'NEILL,
Director.

Enclosure.

H.R. 2574—A bill to consolidate certain mineral interests in the National Grasslands in Billings County, North Dakota, through the exchange of federal and private mineral interests to enhance land management capabilities and environmental and wildlife protection, and for other purposes

CBO estimates that enacting H.R. 2574 would not have a significant impact on the federal budget. Because the bill could affect offsetting receipts, pay-as-you-go procedures would apply, but we estimate that any such effect would not be significant. H.R. 2574 contains no intergovernmental or private-sector mandates as defined in the unfunded Mandates Reform Act of 1995 and would have no significant impact on the budgets of state, local, or tribal governments.

H.R. 2574 provides for an approximately equal-value exchange of mineral interests between the Secretary of Agriculture and private owners of subsurface property in Billings County, North Dakota. The bill would convey about 8,800 acres of federally owned subsurface property to Burlington Resources Oil & Gas Company and other private owners in exchange for those parties conveying about 9,600 acres of their subsurface property to the United States. Enacting the bill would consolidate the current checkerboard pattern of subsurface ownership in the area, protect certain federally owned surface areas from the effects of mineral development, and allow any such development to proceed more smoothly. The Forest Service manages the federal surface areas affected by this bill, and the Bureau of Land Management (BLM) manages the affected federal subsurface in cooperation with the Forest Service.

H.R. 2574 provides that if Burlington Resources Oil & Gas Company conveys title acceptable to the Secretary of Agriculture to all oil and gas rights and interests on certain lands identified on the map entitled “Billings County, North Dakota, Consolidated Mineral Exchange—November 1995,” then the Secretary is directed to convey to Burlington all federal oil and gas rights and interests on lands identified on that map. In addition, the bill provides that if Burlington makes the above conveyance and, within 180 days of the bill’s enactment, the owners of the remaining non-oil and gas mineral interests on lands identified on the same map convey title acceptable to the Secretary, then the Secretary shall convey to those owners all remaining non-oil and gas mineral interests in National Forest System lands and National Grasslands identified on that map by mutual agreement of the Secretary and the owners of those interests.

Enacting H.R. 2574 could reduce offsetting receipts to the government, but based on information from BLM and the Forest Service, CBO estimates that any forgone receipts would likely total less than \$500,000 per year. According to the agencies, the subsurface property involved in the proposed exchange currently has no mineral development on it, but it does have the potential for future development. The Forest Service seeks to acquire some of the subsurface now owned by Burlington to protect certain federal surface land overlying it from potential disturbances from mineral development; therefore, the federal government is unlikely to lease for future mineral development those subsurface areas it would acquire under the bill. But because the managing agencies have no plans to lease the subsurface now owned by the federal government and proposed for conveyance to Burlington under the bill, enacting H.R. 2574 is unlikely to reduce receipts significantly.

The CBO staff contact for this estimate is Victoria V. Heid. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 2574 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 2574 would make no changes in existing law.

ADDITIONAL VIEWS

The purpose of this bill is to ratify an exchange of mineral assets between the U.S. Forest Service and Burlington Resources in order to consolidate federal land holdings in the National Grasslands of North Dakota. The exchange is deemed desirable because the land and mineral ownership pattern in this area is fragmented, with the Forest Service managing the surface estate of the lands while Burlington Resources owns subsurface mineral rights.

The Forest Service supports the objectives of the exchange in order to protect significant resources values in the National Grasslands, including the Kinley Plateau roadless area which provides critical habitat for bighorn sheep. The exchange will also have the benefit of protecting view-shed lands along the scenic Little Missouri River. A Memorandum of Understanding between the Forest Service and Burlington Resources concerning exploration and development of Burlington's mineral rights is also intended to provide additional protection to sensitive lands.

The Administration supports the objectives of this exchange, but did raise concerns in hearing testimony about procedures in the bill. I would have preferred that the Forest Service prepared a legislative environmental impact statement for Congress to consider. And I urge the Forest Service to do so in the future when requesting that Congress ratify such exchange agreements.

But this appears to be a unique case. The Forest Service has engaged in extensive public outreach in negotiating this exchange. Major stakeholders in North Dakota, including environmental groups, support the exchange and the bill as drafted by the congressional delegation. There appears nothing to be gained by undue delay in its implementation.

GEORGE MILLER.

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