

Calendar No. 458

106TH CONGRESS }
2d Session }

SENATE

{ REPORT
106-242

RED CLIFFS DESERT RESERVE

MARCH 9, 2000.—Ordered to be printed

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

REPORT

[To accompany H.R. 2863]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 2863) to clarify the legal effect on the United States of the acquisition of a parcel of land in the Red Cliffs Desert Reserve in the State of Utah, having considered the same, reports favorably thereon without amendment and recommends that the Act do pass.

PURPOSE OF THE MEASURE

The purpose of H.R. 2863 is to clarify the legal effect on the United States of the acquisition a parcel of land in the Red Cliffs Desert Reserve in the State of Utah.

BACKGROUND AND NEED

The parcel of land described in H.R. 2863 was once used as a landfill by the city of St. George, Utah. The parcel is part of a proposed land exchange. When exchanged with the Bureau of Land Management (BLM), the land will be used as part of a habitat conservation plan for the desert tortoise in Washington County, Utah. The bill will protect the United States from any potential liability from any unknown materials that may be in the landfill by leaving that liability in the hands of the city.

LEGISLATIVE HISTORY

H.R. 2863 passed the House of Representatives on November 16, 1999 and was referred to the Committee on Energy and Natural Resources on November 19, 1999. The Committee held a hearing on H.R. 2863 on February 10, 2000. At the business meeting on

February 23, 2000, the Committee on Energy and Natural Resources ordered H.R. 2863 reported favorably without amendment.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on February 23, 2000, by a voice vote of a quorum present recommends that the Senate pass H.R. 2863.

SECTION-BY-SECTION ANALYSIS

Section 1(a) requires that the land described in subsection (b) conveyed from the city of St. George, Utah, shall convey no liability to the United States, other than preexisting liabilities.

Subsection (b) describes the land conveyed.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office (CBO) estimate of the costs of this measure follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 29, 2000.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2863, an act to clarify the legal effect on the United States of the acquisition of a parcel of land in the Red Cliffs Desert Reserve in the state of Utah.

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

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 2864—An act to clarify the legal effect on the United States of the acquisition of a parcel of land in the Red Cliffs Desert Reserve in the state of Utah

CBO estimates that enacting H.R. 2863 would have no impact on the federal budget. The act would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 2863 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.

H.R. 2863 would provide that the transfer of about 15 acres of land in Washington County, Utah, to the United States would impose no liability on the federal government that does not exist before transfer. The property to be transferred, within the Red Cliffs Desert Reserve, was formerly used as a landfill. Enacting this legislation would ensure that the government does not assume addi-

tional liability as a result of the transfer and would have no effect on the federal budget.

The CBO staff contact is Deborah Reis. This estimate was approved by Peter H. Fontaine, 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 H.R. 2863.

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 H.R. 2863, as ordered reported.

EXECUTIVE COMMUNICATIONS

On February 23, 2000 the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on H.R. 2863. These reports had not been received at the time the report on H.R. 2863 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provide by the Bureau of Land Management at the House Subcommittee hearing follows:

STATEMENT OF HENRI BISSON, ASSISTANT DIRECTOR, BUREAU OF LAND MANAGEMENT

Mr. Chairman, members of the subcommittee, I appreciate the opportunity to appear before you today to testify on S. 1664, a bill to clarify the legal effect on the United States of the acquisition of a parcel of land in the Red Cliffs Desert Reserve in the State of Utah, and its companion bill in the House, H.R. 2863. These land transaction bills involve two separate exchanges resulting in change of title on a total of 139 acres.

These bills would support the implementation of the Red Cliffs Desert Reserve which was created in February of 1996 near the City of St. George, Utah when the US Fish and Wildlife Service issued a permit to Washington County, Utah under section 10(a) of the Endangered Species Act. The permit approved the Washington County Habitat Conservation Plan (HCP) which calls for long-term management of approximately 61,000 acres within a reserve to be set aside for the protection and recovery of the federally listed Desert Tortoise. The HCP was developed by a steering committee comprised of local residents, businesses, interest groups and local, state and Federal government representatives.

S. 1664 and H.R. 2863 involve 15 acres of land owned by the City of St. George. The lands lie within the boundary of the Red Cliffs Desert Reserve which was established under the provisions of the Washington County Habitat Conservation Plan (HCP) for the protection and recovery of the threatened Desert Tortoise and other listed species. BLM has entered into an exchange agreement with the city to acquire the property in accordance with the HCP. BLM desires to complete the exchange to further the objectives of the HCP by consolidating non-federal lands in an area at risk from urban development and increasing land values. The site is located in the area of the highest tortoise concentrations. The property was formerly used as a landfill site by St. George City but has been retired for the past 15 years. BLM would offer in exchange a 26-acre parcel outside of the Reserve currently used as a water treatment plant by St. George City under a right-of-way from BLM. The city would make an equalization payment to the United States of \$12,000 to balance the respective values. As part of the exchange processing, BLM required the city to contract for a pre-acquisition site assessment and to complete site restoration including removal of all surface debris and the establishment of adequate cover. The site assessment found no evidence of hazardous materials and concluded that environmental risk was minima. Restoration has been completed to federal and state standards and the site is ready for transfer. Provisions of this bill would ensure that no liability accrues to the United States as a result of the exchange. BLM supports the bill as does the Fish and Wildlife Service and local and state agencies involved in management of the HCP.

CONCLUSION

The BLM and the local communities and governments support these bills to further the species recovery goals of the Washington County HCP.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXII of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by H.R. 2863, as ordered reported.