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EXCHANGES OF LAND AROUND THE CASCADE RESERVOIR

APRIL 13, 2000.—Ordered to be printed

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

REPORT

[To accompany S. 1778]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1778) to provide for equal exchanges of land around the Cascade Reservoir, having considered the same, reports favorably thereon with an amendment and recommends 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. EXCHANGES OF LAND EXCESS TO CASCADE RESERVOIR RECLAMATION PROJECT.

Section 5 of Public Law 86–92 (73 Stat. 219) is amended by striking subsection (b) and inserting the following:

"(b) LAND EXCHANGES.—

"(1) IN GENERAL.—The Secretary may exchange land of either class described in subsection (a) for non-Federal land of not less than approximately equal value, as determined by an appraisal carried out in accordance with—

"(A) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.); and

"(B) the publication entitled Uniform Appraisal Standards for Federal Land Acquisitions' as amended by the Interagency Land Acquisition Conference in consultation with the Department of Justice.

"(2) EQUALIZATION.—If the land exchange under paragraph (1) is not of equal value, the values shall be equalized by the payment of funds by the Secretary or the grantor, as appropriate, in an amount equal to the amount by which the values of the land differ.".

PURPOSE OF THE MEASURE

The purpose of S. 1778, to provide for equal exchanges of land around the Cascade Reservoir, Idaho.

79–010

BACKGROUND AND NEED

Public Law 86–92, approved July 17, 1959, prohibits the Bureau of Reclamation (BOR) from exchanging land within 300 feet of Cascade Reservoir in Idaho. While private property does not exist within 300 feet of the Reservoir, several agricultural easements were reserved by landowners within that zone at the time BOR acquired lands for the reservoir. To ensure that ranching activities do not conflict with BOR's management of the reservoir, S. 1778 authorizes BOR to enter into land exchange with these operators for their rights at, or near, the water's edge. S. 1778 provides BOR with the legal authority necessary for more efficient management and better environmental protection of the reservoir.

LEGISLATIVE HISTORY

S. 1778 was introduced by Senators Craig and Crapo on October 25, 1999. The Subcommittee on Forests and Public Land Management held a hearing on S. 1778 on March 29, 2000. At the business meeting on April 5, 2000, the Committee on Energy and Natural Resources ordered S. 1778 favorably reported, with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATION AND TABULATIONS OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on April 5, 2000, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 1778, if amended as described herein.

COMMITTEE AMENDMENT

During the considerations of S. 1778, the Committee adopted an amendment in the nature of a substitute. The amendment addresses concerns raised by the administration about the appropriate authority to be used by the BOR for the exchange.

SECTION-BY-SECTION ANALYSIS

Section 1 amends section 5 of Public Law 86–92 (73 Stat. 219), An Act to add certain lands located in Idaho to the Boise and Payette National Forest, to authorized the Secretary of the Interior to enter into equal value land exchanges around the Cascade Reservoir in accordance with the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970. The bill authorizes cash payments to equalize the values of lands to be exchanged, if necessary.

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, April 12, 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 S. 1778, a bill to provide for equal exchanges of land around the Cascade Reservoir.

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

Sincerely,

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

Enclosure.

S. 1778—A bill to provide for equal exchanges of land around the Cascade Reservoir

CBO estimates that enacting S. 1778 would have no significant impact on the federal budget. The bill could affect direct spending; thus, pay-as-you-go procedures would apply, but we expect any such impact to be insignificant over the 2000–2005 period. S. 1778 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no significant effect on the budgets on state, local, or tribal governments.

S. 1778 would amend current law to allow the Secretary of the Interior or negotiate exchanges of land of approximately equal value around the Cascade Reservoir in Idaho. According to the Bureau of Reclamation, the lands that would be exchanged under the bill have already been identified to be in excess of the needs of the reservoir. Those lands do not currently generate any significant receipts, and the agency does not expect them to generate any significant receipts over the next 10 years. If lands exchanged under S. 1778 are not of equal value, the bill would require either the federal government or the grantor to make a case payment equal to the difference. Based on information from the Bureau of Reclamation, CBO estimates that any such payments would be insignificant.

The CBO staff contact is Megan Carroll. 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 S. 1778.

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. 1778, as ordered reported.

EXECUTIVE COMMUNICATIONS

On April 5, 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 S. 1778. These reports had not been received at the time the report on S. 1778 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 provided by the Bureau of Reclamation at the Subcommittee hearing follows:

STATEMENT OF ELUID L. MARTINEZ, COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

I appreciate the opportunity to testify on S. 1778, a bill concerning land exchanges at Cascade Reservoir in Idaho. I am Eluid Martinez, Commissioner of the Bureau of Reclamation (Reclamation). S. 1778 would amend the Act of July 17, 1959 [Public Law 86–92, 73 Stat. 218] (Act) to enable Reclamation to negotiate land exchanges among willing sellers and willing buyers at Cascade Reservoir in Idaho. The Administration supports S. 1778 if amended to reflect the technical concern described below.

Current law (Section 5(b) of the Act) authorizes the Bureau of Reclamation to exchange Federal lands at Cascade Reservoir which are no longer necessary for project purposes. This authority, however, is restricted to acquiring lands within 300 feet of the high water line and outside the extended boundaries of the Boise and Payette National Forests.

For many years, Reclamation has attempted to acquire privately-held agricultural easements located on Federal lands on or near the shoreline. These easements were reserved by landowners at the time Reclamation acquired lands for the reservoir and project at Cascade Reservoir. These acquisitions allow Reclamation to better manage the shoreline. Exchanges proposed in the 1991 Cascade Resource Management Plan have been pursued, but the 300-foot restriction has limited negotiations. In some areas, the desirable agricultural easements and surplus Federal lands extend over half a mile from the shoreline. There are currently 27 private agricultural easements encumbering approximately 1,800 acres of Federal land.

Modification of Section 5(b) of the Act, as proposed by S. 1778, could allow Reclamation to reactivate a number of pending land exchange cases stalled by the 300-foot limitation. Completion of these and other land exchanges would enable Reclamation to better manage the Cascade project area.

While Reclamation supports the intent to the bill to move the land exchange process forward, we recommend a

technical amendment to the bill's language on appraisals. Unlike the Bureau of Land Management (BLM), whose ongoing land exchange program is authorized by Sec. 206 of the Federal Land Policy and Management Act of 1976 (FLPMA), Reclamation does few land exchanges, only as authorized by location-specific legislation. Reclamation is experienced, however, in preparing appraisals for land acquisitions, consistent with the "Uniform Appraisal Standards for Federal Land Acquisitions." These appraisal standards are used by 19 federal agencies, including Reclamation. Even FLPMA refers to the "Uniform Appraisal Standards" in Sec. 206(f)(2).

This bill, however, would require Reclamation to do its appraisals under FLPMA's requirements for binding arbitration in the event the parties do not agree on the appraisal. For land exchanges at Cascade Reservoir, Reclamation seeks authority to do only voluntary exchanges between willing buyers and willing sellers—if the parties disagree on the appraisal, neither is compelled to go forward. We would prefer not to be bound by the binding arbitration provisions for appraisals in Sec. 206(d) of FLPMA.

We therefore request that S. 1778 be amended to delete the reference to appraisals under FLPMA, and to authorize Reclamation to conduct the appraisals instead in accordance with the "Uniform Appraisal Standards for Federal Land Acquisitions." We would appreciate the opportunity to work with the Subcommittee on such a technical and clarifying amendment.

This concludes my testimony. I would be glad to answer any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1778, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

AN ACT To Add Certain Lands Located in Idaho to the Boise and Payette National Forests

* * * * * * * *

SEC. 5. (a) * * *

[(b) The Secretary of Agriculture shall make available, from the lands referred to in the foregoing sections of this Act, to the Bureau of Reclamation of the Department of Interior, such lands as the Secretary of the Interior finds are needed in connection with the Cascade Reservoir reclamation project.]

(b) LAND EXCHANGES.—

(1) IN GENERAL.—The Secretary may exchange land of either class described in subsection (a) for non-Federal land of not less

than approximately equal value, as determined by an appraisal in accordance with—

(A) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.); and

(B) the publication entitled 'Uniform Appraisal Standards for Federal Land Acquisition', as amended by the Interagency Land Acquisition Conference in consultation with the Department of Justice.

(2) EQUALIZATION.—If the land exchanged under paragraph (1) are not of equal value, the values shall be equalized by the payment of funds by the Secretary grantor, as appropriate, in an amount equal to the amount by which the values of the land differ.

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