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SENATE

{ REPORT
106-32

FRED STEFFENS LAND TRANSFER

MARCH 22, 1999.—Ordered to be printed

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

REPORT

[To accompany S. 449]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 449) to direct the Secretary of the Interior to transfer to the personal representative of the estate of Fred Steffens of Big Horn County, Wyoming, certain land comprising the Steffens family property, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 449 is to direct the Secretary of the Interior to transfer to the estate of Mr. Fred Steffens certain lands in Big Horn County, Wyoming.

BACKGROUND AND NEED

The 80 acre parcel of land affected by this legislation was purchased by Fred Steffens in 1928 from Mr. Frank McKenny. However, McKenny did not have either title to the property or an assignable right of entry. Research into the history of the property indicated that in 1913 the land in question had been withdrawn by the Bureau of Reclamation for the Shoshone Reclamation Project. While this withdrawal did not preclude homesteading, it did make entry subject to regulation under the Reclamation Act. According to records, a homestead entry for the property was legally filed in 1918. This entry, however, was canceled by the Bureau of Reclamation in 1926 for McKinny's failure to comply with all the homesteading requirements contained within the Act. Notwithstanding the cancellation, Mr. Steffens received a warranty deed with re-

lease of homestead from McKinny and proceeded to use the property as a family farm until his death in 1995. According to the Big Horn County Assessor's office, the family has paid taxes on the land since the date of purchase in 1928.

Upon Mr. Steffens' death, and the attempt to settle his estate, it was discovered that a legal patent had never been issued for these lands. In an attempt to remedy this situation, Ms. Marie Wambeke, Mr. Steffens' sister and representative of the estate, filed a Color of Title Claim with the Bureau of Land Management's Wyoming State Office. This application was rejected, however, because the lands at issue were, and continue to be, withdrawn by the Bureau of Reclamation for the Shoshone Reclamation Project. Regulations specifically preclude claims under the Color of Title Act when the lands are withdrawn for Federal purposes.

The Bureau of Land Management in coordination with the Bureau of Reclamation have both agreed that the only options to clear up the issue are either legislation or revocation of the withdrawal and sale of the property at current market value. The Bureau of Reclamation has indicated that it was willing to relinquish the withdrawal of the lands in question and would not object to the transfer of title to the Steffens estate. The Bureau of Land Management has stated that they support transfer of the surface estate to the family.

LEGISLATIVE HISTORY

S. 449 was introduced by Senators Craig Thomas and Mike Enzi on February 24, 1999. There was no hearing held on S. 449. The bill was identical to a measure reported by the Committee during the 105th Congress, S. 799. On June 25, 1998, S. 799 passed the Senate by unanimous consent. At a business meeting on March 4, 1999, the Committee ordered S. 499 favorably reported, without amendment.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on March 4, 1999, by unanimous vote of a quorum present, recommends that the Senate pass S. 449 without amendment.

SUMMARY OF S. 449

Section 1(a) directs the Secretary of the Interior to issue a quit-claim deed to the personal representative of the Fred Steffens estate for the land described in subsection (c).

Subsection (b) stipulates that the minerals underlying the land are to be reserved to the United States.

Subsection (c) describes the land to be transferred.

Subsection (d) revokes the Bureau of Reclamation withdrawal of the lands described in subsection (c).

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
 CONGRESSIONAL BUDGET OFFICE,
 Washington, DC, March 10, 1999.

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. 449, a bill to direct the Secretary of the Interior to transfer to the personal representative of the estate of Fred Steffens of Big Horn County, Wyoming, certain land comprising the Steffens family property.

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

Sincerely,

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

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 449—A bill to direct the Secretary of the Interior to transfer to the personal representative of the estate of Fred Steffens of Big Horn County, Wyoming, certain land comprising the Steffens family property

S. 449 would direct the Secretary of the Interior, acting through the Bureau of Land Management, to transfer without consideration about 80 acres of land in Big Horn County, Wyoming, to the representative of the estate of Mr. Fred Steffens. The federal government would retain the mineral interests in the land.

CBO estimates that enacting this bill would have no significant impact on the federal budget. Because S. 449 would not affect direct spending or receipts, pay-as-you-go procedures would not apply. S. 449 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no significant impact on the budgets of state, local, or tribal governments.

On March 10, 1999, CBO prepared a cost estimate for H.R. 509, a bill to direct the Secretary of the Interior to transfer to the personal representative of the estate of Fred Steffens of Big Horn County, Wyoming, certain land comprising the Steffens family property, as ordered reported by the House Committee on Resources on March 3, 1999. The two bills are similar, and the estimated costs are the same.

The CBO staff contact for this estimate is Victoria Heid Hall. This estimate was approved by Paul N. Van de Water, 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. 449. 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 enactment of S. 449, as ordered reported.

EXECUTIVE COMMUNICATIONS

On March 8, 1999, 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 views on S. 449. These reports had not been received at the time the report on S. 449 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.

On October 21, 1997, a representative of the Department of the Interior provided the Department's views S. 799. The Department's testimony follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, October 21, 1997.

Hon. FRANK MURKOWSKI,
*Chairman, Senate Committee on Energy and Natural Resources,
Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for the opportunity to present the views of the Department of the Interior (Interior) on S. 799, a bill to transfer eighty acres of public land in Big Horn County, Wyoming to the estate of Mr. Fred Steffens. Interior testified on this bill before the Subcommittee on Forests and Public Lands Management on September 25, 1997.

Interior supports the transfer of eighty acres of public land to the estate of Mr. Fred Steffens. This property has been continuously used as a family farm by the Steffens' family since Mr. Steffens purchased the land in 1928. Mr. Steffens was issued a warranty deed to the property by Mr. Frank McKinney, predecessor in interest. Unfortunately, Mr. McKinney knowingly had neither title to the property nor an assignable right of entry. However, the fact that Mr. McKinney did not own the land did not stop him from selling the property or issuing the warranty deed. In good faith Mr. Steffens purchased the property and, according to the Big Horn County Assessor's office, paid taxes since the date of purchase in 1928.

Upon Mr. Steffens' death, and in the attempt to settle his estate, it was discovered that a patent had never been issued for these lands. In an attempt to remedy this situation, Ms. Marie Wambeke, Mr. Steffens' sister and representative of the estate, filed a Color of Title application with the Bureau of Land Management's (BLM) Wyoming State Office. This application was rejected, however, because the lands at issue were, and continue to be, withdrawn by the Bureau of Reclamation (BOR) for the Shoshone Reclamation Project. Regulations specifically preclude claims under the Color of Title Act when lands are withdrawn for Federal purposes.

Our BLM field office has coordinated with the BOR and both agencies agree the only options to clear up this issue are either Congressional action or revocation of the withdrawal and sale of

the property at current market value. The BOR is willing to relinquish the withdrawal of these lands and does not object to the transfer of title to the Steffens' estate. The record shows the Steffens family occupied this land in good faith.

The BLM supports the transfer of the right, title, and interest of the United States in and to the surface estate to the family. We would request, however, that the legislation be modified to allow the United States to reserve the mineral estate, as the lands are valuable for oil and gas. Such reservation would occur if title was transformed under the Color of Title Act. Additionally, the legislation should be modified to revoke the withdrawal as it relates to the lands in this bill.

The Committee's majority staff provided a copy of a substitute amendment that is intended for introduction at the markup. It appears upon review of this substitute that the Department's concerns have been addressed and suggestions for modification taken. We would therefore support the reporting out of this bill from your Committee.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the President's program.

Sincerely,

BOB ARMSTRONG,
*Assistant Secretary for Land
and Minerals Management.*

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 449, as ordered reported.

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