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CENTRAL NEVADA RURAL CEMETERIES ACT

FEBRUARY 23, 2005.—Ordered to be printed

Filed, under authority of the order of the Senate of February 17, 2005

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

R E P O R T

[To accompany S. 254]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 254) to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

The purpose of S. 254 is to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries.

BACKGROUND AND NEED

The town of Kingston, Nevada, located in Lander County, desires approximately 8.75 acres of U.S. Forest Service (USFS) land to supplement the 1.25 acres of USFS land conveyed to it in 2000 for use as a cemetery. The additional land will ensure that areas of unmarked graves are included in the town's cemetery, and that space is available for future graves in Kingston Cemetery. The additional land will bring the total acreage to the original ten acres that the town had access to under a Special Use Permit. The town of Kingston wants to continue use of the cemetery through local public ownership rather than through the Federal agency permitting process. In addition, the bill would convey ten acres of land

managed by the Bureau of Land Management (BLM) to Eureka County, Nevada, for continued use for the Maiden's Grave Cemetery. The site continues to receive occasional burials and has been identified by the BLM as suitable for disposal.

LEGISLATIVE HISTORY

S. 254 was introduced by Senator Reid for himself and Senator Ensign on February 1, 2005. An identical bill (S. 1819) was introduced by Senators Reid and Ensign in the 108th Congress. The Subcommittee on Public Lands and Forests held a hearing on S. 1819 on March 10, 2004 (S. Hrg. 108–490). S. 1819 was attached as a stand alone title of H.R. 620 and passed the Senate, by unanimous consent, as amended, on December 7, 2004.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in an open business session on February 9, 2005, by a voice vote of a quorum present, recommends that the Senate pass S. 254.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title.

Section 2 provides findings and directs the Secretary of Agriculture to convey, for no consideration, 10 acres of National Forest land to the city of Lander, Nevada, to expand an existing cemetery, within 90 days after passage of the Act. It also directs the Secretary to grant an access easement for persons desiring to visit the cemetery and includes reversion provisions if the county uses the land for any purpose other than a cemetery.

Section 3 provides findings and directs the Secretary of Agriculture to convey, for no consideration, 10 acres of National Forest land to Eureka County, Nevada, to expand an existing cemetery. It also directs the Secretary to grant an access easement for persons desiring to visit the cemetery and includes reversion provisions if the county uses the land for any purpose other than a cemetery.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the costs of this measure has been provided the Congressional Budget Office.

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CBO estimates that implementing S. 254 would not significantly affect the federal budget and that enacting the bill would not affect direct spending or revenues. S. 254 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.

S. 254 would direct the Secretary of Agriculture and the Secretary of the Interior to convey, without consideration, certain lands to two counties in Nevada for use as cemeteries. According to both the Forest Service and the Bureau of Land Management, the land to be conveyed currently generates no significant receipts and is not expected to do so over the next 10 years; hence, CBO estimates that conveying it would not affect offsetting receipts (a

credit against direct spending). We also estimate that federal spending to complete the proposed conveyance would be less than $50,000, subject to the availability of appropriated funds.

The CBO staff contacts for this estimate are Megan Carroll and Julie Middleton. 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. 254.

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. 254, as ordered reported.

EXECUTIVE COMMUNICATIONS

The views of the administration were included in testimony received by the Committee at a hearing on S. 1819, an identical bill from the 108th Congress, on March 10, 2004.

STATEMENT OF MARK REY, UNDER SECRETARY, NATURAL RESOURCES AND ENVIRONMENT, DEPARTMENT OF AGRICULTURE

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S. 1819 Central Nevada Rural Cemeteries Act

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In summary, Section 1 of S. 1819 requires the Secretary through the Chief of the Forest Service to convey to Lander County, Nevada, for no consideration, all right, title, and interest of the United States in and to the 8.75 acres of National Forest System land known as Kingston Cemetery.

In accordance with Public Law 85–569, the Townsite Act, we have already conveyed 1.25 acres of land (on which the cemetery is located) to the Town of Kingston for $500 on August 1, 2000. At the time of conveyance, the Town of Kingston indicated the 1.25 acres encompassed all known marked and unmarked gravesites. The Town of Kingtson indicated that the 1.25 acres was adequate to accommodate their future expansion needs. Specifically, all of the gravesites were accounted for within a half acre fenced area that the 1.25 acres encompassed. The additional 0.75 acres were intended for parking and anticipated expansion of the current cemetery.

If new unmarked gravesites have been discovered or the needs of the Kingston Cemetery have changed and are in the public interest, we would be supportive of making additional Federal lands available to the county or city for

fair market value and granting the county an easement to maintain the access road to the cemetery as a county road.

If Lander County is not willing to pay fair market value to purchase this land, we would be willing to consider authorizing its current and future use of this land under a special-use permit authorization.

The Department does not object to making additional Federal lands available to Lander County, Nevada in S. 1819, but the Department believes that the Forest Service can meet the objectives of Section 1 of this legislation under its current statutory authorities that would allow it to convey National Forest System lands to Lander, County for fair-market value in cash.

For example, under the Townsite Act, the Secretary of Agriculture may convey, for fair market value, up to 640 acres of land to established communities located adjacent to National Forests in Alaska or the contiguous western states. Within certain limits, the Sisk Act authorizes the Secretary of Agriculture to exchange lands with states, counties, or municipal governments or public school districts for land or money.

Moreover, under the General Exchange Act, the Secretary of Agriculture can exchange National Forest System lands with State and local governments. These laws require the Secretary of Agriculture to obtain fair market value for exchanges or sales of National Forest lands. Indeed, the Federal policy, in recent decades, has moved toward obtaining a fair return to the public for the value of lands conveyed out of Federal ownership.

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STATEMENT OF TOM LONNIE, ASSISTANT DIRECTOR, MINERALS, REALTY AND RESOURCE PROTECTION, DEPARTMENT OF THE INTERIOR

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"The Maiden's Grave" is the final resting place of Lucinda Duncan who on August 15, 1863, died on her way to the gold and silver fields of Nevada. Mrs. Duncan at 71 was "the mother of the wagon train" which consisted largely of her seven surviving children, their spouses and a multitude of grandchildren. Following her death, the wagon train held a ceremony and their leaving was memorialized by a member of the party: "* * * we paid our last debt & respect to the remains of the departed mother. There upon that wild & lonely spot, we left her, until Gabriel shall sound his trumpet in the last day. The scene was truly a sad one to leave a beloved mother on the wild and desolate plains. A board with the name of the deceased was put up at the head & boulder was laid over the grave to keep wolves from scratching in it. After this the train moved on."

Today, the site continues to receive occasional burials. Therefore, it is considered a "modern cemetery" and does not qualify for the National Register of Historic Places.

The BLM, through its planning process, has identified the cemetery as suitable for disposal and the county has indicated a strong interest in taking responsibility for this parcel.

While we would typically expect to receive market value for such a transfer, we understand the unique circumstances in this case, and the unique needs of Eureka County. Under other circumstances, we might have considered a Recreation and Public Purposes (R&PP) Act conveyance to lower the cost to the county, but the need for permanency in this transfer prevents this from being a viable option, thus the need for legislative intervention. We appreciate this opportunity to work cooperatively with local interests to the betterment of the community.

During consideration of H.R. 272 by the House of Representatives, amendments were made to address the BLM's concerns which were primarily of a technical nature and we support both H.R. 272 and its identical companion S. 1819.

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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. 254, as ordered reported.

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