

LANDS IN CLARK COUNTY, NEVADA

SEPTEMBER 4, 1996.—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

R E P O R T

[To accompany H.R. 2135]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2135) to provide for the correction of boundaries of certain lands in Clark County, Nevada, acquired by persons who purchased such lands in good faith reliance on existing private land surveys, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. FINDINGS.

The Congress finds and declares that:

(1) Certain landowners in the (North) Decatur Boulevard area of Las Vegas and North Las Vegas, Clark County, Nevada, who own property adjacent to lands managed by the Bureau of Land Management have been adversely affected by certain erroneous private surveys.

(2) These landowners have occupied or improved their property in good faith and in reliance on erroneous surveys of their properties that they believed were accurate.

(3) These landowners presumed their occupancy was codified through an Eighth Judicial District Court (Nevada) Judgment and Decree filed October 26, 1989, as a “friendly lawsuit” affecting numerous landowners in the (North) Decatur Boulevard area.

(4) The 1990 Bureau of Land Management dependent resurvey and section subdivision of sections 6, 7, 18, and 19, T. 19 S., R. 61 E., Mount Diablo Meridian, Nevada, correctly established accurate boundaries between such public lands and private lands.

(5) The Bureau of Land Management has the authority to sell public lands which are affected as a result of erroneous private survey and encroachments existing as of the date of this Act as it affects T. 19 S., R. 61 E., sections 18

and 19, and T. 19 S. R. 60 E., section 13 and 24, if encroachments based on the same erroneous private survey are identified, in accordance with this Act.

SEC. 2. CONVEYANCE OF LANDS.

(a) CLAIMS.—Within one year after the date of the enactment of this Act, the city of Las Vegas on behalf of the owners of real property, located adjacent to the lands described in subsection (b), may submit to the Secretary of the Interior (hereafter in this Act referred to as the “Secretary”) in writing a claim to the lands described in subsection (b). The claim submitted to the Secretary shall be accompanied by—

- (1) a description of the lands claimed;
- (2) information relating to the claim of ownership of such lands; and
- (3) such other information as the Secretary may require.

(b) LANDS DESCRIBED.—The lands described in this subsection are those Federal lands located in the Bureau of Land Management Las Vegas District, Clark County, Nevada, in sections 18 and 19, T. 19 S., R. 61 E., Mount Diablo Meridian, as described by the dependent resurvey by the Bureau of Land Management accepted May 4, 1990, under Group No. 683, Nevada, and subsequent supplemental plats of sections 18 and 19, T. 19 S., R. 61 E., Mount Diablo Meridian, as contained on plats accepted November 17, 1992. Such lands are described as (1) government lots 22, 23, 26, and 27 in said section 18; and (2) government lots 20, 21, and 24 in said section 19, containing 29.36 acres, more or less.

(c) CONVEYANCE.—The Secretary shall convey all right, title, and interest of the United States in and to the public lands described in subsection (b) to the city of Las Vegas, Clark County, Nevada, upon payment by the city of fair market value based on a Bureau of Land Management approved appraised market value of the lands as of December 1, 1982, and on the condition that the city convey the effected lands to the land owners referred to in subsection (a).

Amend the title so as to read:

A bill to provide for the relief of certain persons in Clark County, Nevada, who purchased lands in good faith reliance on existing private land surveys.

PURPOSE OF THE BILL

The purpose of H.R. 2135 is to provide for the correction of boundaries of certain lands in Clark County, Nevada, acquired by persons who purchased such lands in good faith reliance on existing land surveys.

BACKGROUND AND NEED FOR LEGISLATION

Within the City of Las Vegas there are many areas where long-standing property line disputes exist. One of the most difficult is along the Decatur Boulevard alignment at the border between the cities of Las Vegas and North Las Vegas and involves a trespass on Federal land by the property owners of adjacent parcels.

The original land surveys of the subject area were performed in 1881 and 1882. There is considerable evidence that the points set by the original government contract surveys were not stones as called for in the official field notes, but small mesquite stakes. While it is probable that the exterior lines of the townships were run, it is doubtful that all of the interior section lines were surveyed. This was not an uncommon circumstance in remote areas of the west.

The first record of a private survey in the area was in 1953. The area under question is near the Las Vegas Wash in the northeast area of the City of Las Vegas and the original corners very likely were destroyed by time and weather. It is assumed that the private surveyors of this era could not find evidence of the original survey. Over a twenty year period of time, various private surveys were performed and property corners set. Unfortunately, the variance between them was as much as 250 feet in the east-west direction.

Property owners in the area built houses and developed their properties in good faith, relying on the various private surveys.

As years passed and development increased, it became evident that severe discrepancies existed among the property surveys. In 1989, in response to citizens' concerns, the City of Las Vegas commissioned a survey of the properties in an area four miles north to south and one mile on each side of Decatur Boulevard. Suit was brought in District Court on behalf of all the property owners in eight sections of land to quiet title to their individual parcels. On October 25, 1989, District Judge Charles Thompson issued a judgment and decree quieting title to the land in question. The judgment set the street centerline and adjoining property lines at the most equitable solution for all properties involved. This solution in effect set the property lines at the lines of occupation.

The Bureau of Land Management (BLM) objected to the court action, stating that it had not been properly notified, and that the District Court had no jurisdiction over the Federal land included in the judgment. BLM had been notified at the Washington, D.C. address, but the local District Office had not received notification.

In 1990, the BLM, under its sole Federal authority, performed a dependent resurvey of the land. A dependent resurvey is intended to retrace the original survey (1881) without deviation, regardless of occupation. The City of North Las Vegas had applied to purchase a large block of Federal land on the east side of Decatur Boulevard, and the survey was also to delineate and monument these lands. The resurvey set the line west of the adjudicated centerline of Decatur Boulevard, and in fact passes through at least one house. The BLM maintains that the property owners who occupy the disputed land are in trespass on Federal property.

If the land sale to North Las Vegas had been completed, the land in conflict between the centerline of Decatur Boulevard and the range line would have been quitclaimed to the City of Las Vegas, and in turn, quitclaimed to the affected property owners, clearing title to their lands.

An injunction against the sale of the public lands to the City of North Las Vegas was filed jointly by the Sierra Club and Citizen Alert with the Department of Interior Board of Land Appeals (IBLA). The injunction was finally lifted this year, freeing the land to be sold to private ownership. A new appraisal of the land ensued. The developers who were interested in the land have declined to purchase it at the new appraisal price so the sale has not taken place. With the land still in Federal ownership, the boundary line adjustments cannot take place and the people who own or occupy land in the disputed area cannot sell or refinance their homes, or obtain clear title.

In November 1992, the BLM, in a cooperative effort to resolve the problem, issued supplemental plats of the two sections of land involved which created seven government lots encompassing the disputed area. The creation of these lots is the first step in making them available for transfer to private ownership.

The next step is legislation transferring title of the seven lots from the United States to the City of Las Vegas. When this occurs, the City will take appropriate action to divide the lots further and quitclaim to adjacent owners, who are now either occupying the

land or believe they have title to it by virtue of the early private surveys or the district court decision.

The other option which for obvious reasons is much less attractive to the City of Las Vegas would be to purchase the land from the Federal Government. This cost is estimated at \$500,000 to \$600,000. The City estimates that they have already spent nearly \$500,000 on survey and court costs.

COMMITTEE ACTION

H.R. 2135 was introduced on July 27, 1995, by Congresswoman Barbara F. Vucanovich (R-NV). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks, Forests and Lands. On May 30, 1996, the Subcommittee held a hearing on H.R. 2135, where Mr. Mat Millenbach, Deputy Director of the BLM, testified in support, provided that the bill would be amended to reflect the BLM's concerns. In addition to Mr. Millenbach, Ms. Rita Lumos, City Surveyor for the City of Las Vegas, Nevada, testified on the bill. On June 27, 1996, the Subcommittee met to mark up H.R. 2135. An amendment to require the City of Las Vegas to pay fair market value on the date in which this problem first came to the attention of the BLM (December 1, 1982) was offered by Congressman James V. Hansen (R-UT), and adopted by voice vote. The bill was then ordered favorably reported to the Full Committee by voice vote. On July 17, 1996, the Full Resources Committee met to consider H.R. 2135. Congressman Hansen offered an amendment to clarify the lands involved in the erroneous private surveys and to provide the BLM with flexibility to fully resolve this problem. The amendment was adopted by voice vote. The bill was then ordered favorably reported to the House of Representatives by voice vote, in the presence of a quorum.

SECTION-BY-SECTION ANALYSIS

Section 1. Findings

Section 1 states that certain landowners in the Decatur Boulevard area of Las Vegas and North Las Vegas, Clark County, Nevada, who own property adjacent to lands managed by the BLM have been adversely affected by certain erroneous private surveys. These landowners have occupied or improved these lands in good faith and presumed their occupancy was codified through an Eight Judicial District Court (Nevada) Judgment and Decree filed October 26, 1989.

The 1990 BLM dependent resurvey and section subdivision of sections 6, 7, 18 and 19, T. 19 S., R. 61 E., Mount Diablo Meridian, Nevada, correctly establishes the boundaries.

The BLM has the authority to sell public lands which are affected by the erroneous private survey and encroachments existing as of the date of this Act.

Section 2. Conveyance of lands

Section 2 provides that within one year after the date of enactment, the city of Las Vegas on behalf of the land owners, may submit to the Secretary of the Interior in writing a claim to the lands

described in subsection (b). The Secretary shall convey all right, title, and interest of the United States to the City of Las Vegas upon payment by the City of fair market value based on a BLM approved appraisal as of December 1, 1982, and on the condition that the City convey the affected lands to the lands owners.

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.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 2135 will have no significant inflationary impact on prices and costs in the operation of the national economy.

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. 2135. 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. 2135 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures. If enacted, H.R. 2135 would decrease offsetting receipts to the Federal Government by approximately \$1 million.

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. 2135.

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. 2135 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
 CONGRESSIONAL BUDGET OFFICE,
 Washington, DC, August 1, 1996.

Hon. DON YOUNG,
 Chairman, Committee on Resources,
 House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2135, a bill to provide for the relief of certain persons in Clark County, Nevada, who purchased lands in good faith reliance on existing private land surveys. The bill was ordered reported by the House Committee on Resources on July 17, 1996. Enacting the bill would result in no significant change in discretionary spending. Enacting the bill would affect direct spending; therefore, pay-as-you-go procedures would apply to the bill. CBO estimates that direct spending would increase by about \$1 million over the next few years.

Because of incorrect private surveys, certain private land owners in Las Vegas, Nevada, have occupied neighboring federal lands managed by the Bureau of Land Management (BLM). The federal lands in question total about 30 acres, and BLM currently plans to sell that property. This bill would direct the Secretary of the Interior to sell the land to the city of Las Vegas at its appraised 1982 market value and would require the city to convey the land to the owners of property that is adjacent to the BLM property. The 1982 market value is about \$1 million less than the lands' current market value, which we expect the federal government would otherwise receive under current law. Therefore, CBO estimates that enacting H.R. 2135 would decrease offsetting receipts by about \$1 million. We expect that the property would otherwise be sold at market value some time over the next few years.

H.R. 2135 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) and would impose no costs on state, local, or tribal governments. The sale authorized by this bill would take place only upon the voluntary decision by the city of Las Vegas to submit a claim to these lands on behalf of the owners.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Jonathan Womer and Victoria Heid.

Sincerely,

JUNE E. O'NEILL, *Director*.

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 2135 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 2135 would make no changes in existing law.