

PUBLIC LAW 105-263

105th Congress
An Act

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An Act

To provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Southern Nevada Public Land Management Act of 1998".

SECTION 2. FINDINGS AND PURPOSE.

(a) Findings.-- The Congress finds the following:

- (1) The Bureau of Land Management has extensive land ownership in small and large parcels interspersed with or adjacent to private land in the Las Vegas Valley, Nevada, making many of these parcels difficult to manage and more appropriate for disposal.
- (2) In order to promote responsible and orderly development in the Las Vegas Valley, certain of those Federal lands should be sold by the Federal Government based on recommendations made by local government and the public.
- (3) The Las Vegas metropolitan area is the fastest growing urban area in the United States, which is causing significant impacts upon the Lake Mead National Recreation Area, the Red Rock Canyon National Conservation Area, and the Spring Mountains National Recreation Area, which surround the Las Vegas Valley.

(b) Purpose.--The purpose of this Act is to provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to

provide for the acquisition of environmentally sensitive lands in the State of Nevada.

SECTION 3. DEFINITIONS.

As used in this Act:

- (1) The term "Secretary" means the Secretary of the Interior.
- (2) The term "unit of local government" means Clark County, the City of Las Vegas, the City of North Las Vegas, or the City of Henderson; all in the State of Nevada
- (3) The term "Agreement" means the agreement entitled "The Interim Cooperative Management Agreement Between The United States Department of the Interior--Bureau of Land Management and Clark County" dated November 4, 1992.
- (4) The term "special account" means the account in the Treasury of the United States established under section 4(e)(1)(C).
- (5) The term "Recreation and Public Purposes Act" means the Act entitled "An Act to authorize acquisition or use of public lands by States, counties, or municipalities for recreational purposes", approved June 14, 1926 (43 U.S.C. 869 et seq.).
- (6) The term "regional governmental entity" means the Southern Nevada Water Authority, the Regional Flood Control District, and the Clark County Sanitation District.

SECTION 4. DISPOSAL AND EXCHANGE.

- (a) Disposal. -- Notwithstanding the land use planning requirements contained in sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711 and 1712), the Secretary, in accordance with this Act, the Federal Land Policy and Management Act of 1976, and other applicable law, and subject to valid existing rights, is authorized to dispose of lands within the boundary of the area under the jurisdiction of the Director of the Bureau of Land Management in Clark County, Nevada, as generally depicted on the map entitled "Las Vegas Valley, Nevada, Land Disposal Map", dated April 10, 1997. Such map shall be on file and available for public inspection in the offices of the Director and the Las Vegas District of the Bureau of Land Management.
- (b) Reservation for Local Public Purposes. --
 - (1) Recreation and public purpose act conveyances. -- Not less than 30 days before the offering of lands for sale or exchange pursuant to subsection (a), the State of

Nevada or the unit of local government in whose jurisdiction the lands are located may elect to obtain any such lands for local public purposes pursuant to the provisions of the Recreation and Public Purposes Act. Pursuant to any such election, the Secretary shall retain the elected lands for conveyance to the State of Nevada or such unit of the local government in accordance with the provisions of the Recreation and Public Purposes Act.

(2) Rights-of-way. --

(A) Issuance. --Upon application, by a unit of local government or regional governmental entity, the Secretary, in accordance with this Act and the Federal Land Policy and Management Act of 1976, and other applicable provisions of law, shall issue right-of-way grants on Federal lands in Clark County, Nevada, for all reservoirs, canals, channels, ditches, pipes, pipelines, tunnels, and other facilities and systems needed for--

(i) the impoundment, storage, treatment, transportation, or distribution of water (other than water from the Virgin River) or wastewater; or

(ii) flood control management.

(B) Duration.--Right-of-way grants issued under this paragraph shall be valid in perpetuity.

(C) Waiver of fees.--Right-of-way grants issued under this paragraph shall not require the payment of rental or cost recovery fees.

(3) Youth activity facilities.-- Within 30 days after a request by Clark County, Nevada, the Secretary shall offer to Clark County, Nevada, the land depicted on the map entitled "Vicinity Map Parcel 177-28-101-020 dated August 14, 1996, in accordance with the Recreation and Public Purposes Act for the construction of youth activity facilities.

(c) Withdrawal.--Subject to valid existing rights, all Federal lands identified in subsection (a) for disposal are withdrawn from location and entry, under the mining laws and from operation under the mineral leasing and geothermal leasing laws until such time as the Secretary terminates the withdrawal or the lands are patented.

(d) Selection.--

(1) Joint selection required.--The Secretary and the unit of local government in whose jurisdiction lands referred to in subsection (a) are located shall jointly select lands to be offered for sale or exchange under this section. The Secretary shall coordinate land disposal activities with the unit of local government in whose jurisdiction such lands are located. Land disposal activities of the Secretary shall be consistent with local land use planning and zoning requirements and recommendations.

(2) Offering.--After land has been selected in accordance with this subsection, the Secretary shall make the first offering of land as soon as practicable after the date of the enactment of this Act.

(e) Disposition of Proceeds.--

(1) Land sales.--Of the gross proceeds of sales of land under this subsection in a fiscal year--

(A) 5 percent shall be paid directly to the State of Nevada for use in the general education program of the State;

(B) 10 percent shall be paid directly to the Southern Nevada Water Authority for water treatment and transmission facility infrastructure in Clark County, Nevada; and

(C) the remainder shall be deposited in a special account in the Treasury of the United States for use pursuant to the provisions of paragraph (3). Amounts in the special account shall be available to the Secretary without further appropriation and shall remain available until expended.

(2) Land exchanges.--

(A) Payments.--In the case of a land exchange under this section, the non-Federal party shall provide direct payments to the State of Nevada and the Southern Nevada Water Authority in accordance with paragraphs (1)(A) and (B). The payments shall be based on the fair market value of the Federal lands to be conveyed in the exchange and shall be considered a cost incurred by the non-Federal party that shall be

compensated by the Secretary if so provided by any agreement to initiate exchange.

(B) Pending exchanges.--The provisions of this Act, except this subsection and subsections (a) and (b), shall not apply to any land exchange for which an initial agreement to initiate an exchange was signed by an authorized representative of the exchange proponent and an authorized officer of the Bureau of Land Management prior to February 29, 1996.

(3) Availability of special account.--

(A) In general.--Amounts deposited in the special account may be expended by the Secretary for--

(i) the acquisition of environmentally sensitive land in the State of Nevada in accordance with subsection (h), with priority given to lands located within Clark County;

(ii) capital improvements at the Lake Mead National Recreation Area, the Desert National Wildlife Refuge, the Red Rock Canyon National Conservation Area and other areas administered by the Bureau of Land Management in Clark County, and the Spring Mountains National Recreation Area;

(iii) development of a multi-species habitat conservation plan in Clark County, Nevada;

(iv) development of parks, trails, and natural areas in Clark County, Nevada, pursuant to a cooperative agreement with a unit of local government; and

(v) reimbursement of costs incurred by the local offices

of the Bureau of Land Management in arranging sales or exchanges under this Act.

(B) Procedures.--The Secretary shall coordinate the use of the special account with the Secretary of Agriculture, the State of Nevada, local governments, and other interested persons, to ensure accountability and demonstrated results.

(C) Limitation.--Not more than 25 percent of the amounts available to the Secretary from the special account in any fiscal year (determined without taking into account amounts deposited under subsection (g)(4)) may be used in any fiscal year for the purposes described in subparagraph (A) (iv).

(f) Investment of Special Account.-- All funds deposited as principal in the special account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Such interest shall be added to the principal of the account and expended according to the provisions of subsection (e)(3).

(g) Airport Environs Overlay District Land Transfer.--Upon request of Clark County, Nevada, the Secretary shall transfer to Clark County, Nevada, without consideration, all right, title, and interest of the United States in and to the lands identified in the Agreement, subject to the following:

(1) Valid existing rights.

(2) Clark County agrees to manage such lands in accordance with the Agreement and with section 47504 of title 49, United States Code (relating to airport noise compatibility planning), and regulations promulgated pursuant to that section.

(3) Clark County agrees that if any of such lands are sold, leased, or otherwise conveyed or leased by Clark County, such sale, lease, or other conveyance shall contain a limitation which requires uses compatible with the Agreement and such Airport Noise Compatibility Planning provisions.

(4) Clark County agrees that if any of such lands are sold, leased, or otherwise conveyed by Clark County, such lands shall be sold, leased, or otherwise conveyed for fair market value. Clark County shall contribute 85 percent of the gross proceeds from the sale, lease, or other conveyance of such lands directly to the special

account. If any of such lands sold, leased, or otherwise conveyed by Clark County are identified on the map referenced in section 2(a) of the Act entitled "An Act to provide for the orderly disposal of certain Federal lands in Nevada and for the acquisition of certain other lands in the Lake Tahoe Basin, and for other purposes", approved December 23, 1980 (94 Stat. 3381; commonly known as the "Santini-Burton Act"), the proceeds contributed to the special account by Clark County from the sale, lease, or other conveyance of such lands shall be used by the Secretary of Agriculture to acquire environmentally sensitive land in the Lake Tahoe Basin pursuant to section 3 of the Santini-Burton Act. Clark County shall contribute 5 percent of the gross proceeds from the sale, lease, or other conveyance of such lands directly to the State of Nevada for use in the general education program of the State, and the remainder shall be available for use by the Clark County Department of Aviation for the benefit of airport development and the Noise Compatibility Program.

SECTION 5. ACQUISITIONS.

(a) Acquisitions.--

(1) Definition.--For purposes of this subsection, the term "environmentally sensitive land" means land or an interest in land, the acquisition of which the United States would, in the judgment of the Secretary or the Secretary of Agriculture--

(A) promote the preservation of natural, scientific, aesthetic, historical, cultural, watershed, wildlife, and other values contributing to public enjoyment and biological diversity;

(B) enhance recreational opportunities and public access;

(C) provide the opportunity to achieve better management of public land through consolidation of Federal ownership; or

(D) otherwise serve the public interest.

(2) In general.--After the consultation process has been completed in accordance with paragraph (3), the Secretary may acquire with the proceeds of the special account environmentally sensitive land and interests in environmentally sensitive land. Lands may not be acquired under this section without the consent of the owner thereof. Funds made available from the special account may be used with any other funds made available under any other provision of law.

(3) Consultation.--Before initiating efforts to acquire land under this subsection, the Secretary or the Secretary of Agriculture shall consult with the State of Nevada and with local government within whose jurisdiction the lands are located, including appropriate planning and regulatory agencies, and with other interested persons, concerning the necessity of making the acquisition, the potential impacts on State and local government, and other appropriate aspects of the acquisition. Consultation under this paragraph is in addition to any other consultation required by law.

(b) Administration.--On acceptance of title by the United States, land and interests in land acquired under this section that is within the boundaries of a unit of the National Forest System, National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, any other system established by Act of Congress, or any national conservation or national recreation area established by Act of Congress--

(1) shall become part of the unit or area without further action by the Secretary or Secretary of Agriculture; and

(2) shall be managed in accordance with all laws and regulations and land use plans applicable to the unit or area.

(c) Determination of Fair Market Value.-- The fair market value of land or an interest in land to be acquired by the Secretary or the Secretary of Agriculture under this section shall be determined pursuant to section 206 of the Federal Land Policy and Management Act of 1976 and shall be consistent with other applicable requirements and standards. Fair market value shall be determined without regard to the presence of a species listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(d) Payments in Lieu of Taxes.--Section 6901(1) of title 31, United States Code, is amended as follows:

(1) By striking ``or" at the end of subparagraph (F).

(2) By striking the period at the end of subparagraph (G) and inserting ``; or".

(3) By adding at the end the following: ``(H) acquired by the Secretary of the Interior or the Secretary of Agriculture under section 5 of the Southern Nevada Public Land Management Act of 1998 that is not otherwise described in subparagraphs (A) through (G)."

SECTION 6. REPORT.

The Secretary, in cooperation with the Secretary of Agriculture, shall submit to the Committee on Energy and Natural Resources of the

Senate and the Committee on Resources of the House of Representatives an annual report on all transactions under this Act.

SECTION 7. RECREATION AND PUBLIC PURPOSES ACT.

(a) Transfer of Reversionary Interest.--

(1) In general.-- Upon request by a grantee of lands within Clark County, Nevada, that are subject to a lease or patent issued under the Recreation and Public Purposes Act, the Secretary may transfer the reversionary interest in such lands to other non-Federal lands. The transfer of the reversionary interest shall only be made to lands of equal value, except that with respect to the State of Nevada or a unit of local government an amount equal to the excess (if any) of the fair market value of lands received by the unit of local government over the fair market value of lands transferred by the unit of local government shall be paid to the Secretary and shall be treated under subsection (e)(1) of section 4 as proceeds from the sale of land. For purposes of this subsection, the fair market value of lands to be transferred by the State of Nevada or a unit of local government may be based upon a statement of value prepared by a qualified appraiser.

(2) Terms and conditions applicable to lands acquired.--Land selected under this subsection by a grantee described in paragraph (1) shall be subject to the terms and conditions, uses, and acreage limitations of the lease or patent to which the lands transferred by the grantee were subject, including the reverted provisions, under the Recreation and Public Purposes Act.

(b) Affordable Housing.--The Secretary, in consultation with the Secretary of Housing and Urban Development, may make available, in accordance with section 203 of the Federal Land Planning and Management Act of 1976, land in the State of Nevada at less than fair market value and under other such terms and conditions as he may determine for affordable housing purposes. Such lands shall be made available only to State or local governmental entities, including local public housing authorities. For the purposes of this subsection, housing shall be considered to be affordable housing if the housing serves low-income families as defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704).

SECTION 8. BOUNDARY MODIFICATION OF RED ROCK CANYON NATIONAL CONSERVATION AREA.

Section 3(a)(2) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc-1(a)(2)) is amended to read as follows:

“(2) The conservation area shall consist of

approximately 195,780 acres as generally depicted on the map entitled 'Red Rock Canyon National Conservation Area Administrative Boundary Modification', dated August 8, 1996."

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