

## DESERT COMMUNITY LANDS ACT

NOVEMBER 9, 2018.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,  
submitted the following

### R E P O R T

together with

### DISSENTING VIEWS

[To accompany H.R. 2365]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2365) to convey certain Federal land in California to Apple Valley, California, Twentynine Palms, California, Barstow, California, and Victorville, California, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Desert Community Lands Act”.

#### SEC. 2. CONVEYANCE FOR APPLE VALLEY OFF-HIGHWAY VEHICLE RECREATION AREA.

(a) DEFINITIONS.—In this section:

- (1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.  
(2) TOWN.—The term “Town” means the town of Apple Valley, California.

(b) CONVEYANCE OF FEDERAL LAND TO TOWN.—

(1) CONVEYANCE REQUIRED.—At the request of the Town, not later than 5 years after the date of the enactment of this Act, the Secretary shall convey to the Town, without consideration, all right, title, and interest of the United States in and to the surface estate of the approximately 4,630 acres of land generally depicted as “Proposed Conveyance Area” on the map entitled “Conveyance to Town of Apple Valley” and dated June 1, 2015. Such land shall be known and designated as the “Apple Valley Off-Highway Vehicle Recreation Area”.

(2) EXISTING RIGHTS AND MINERAL ESTATE.—The conveyance under this subsection—

- (A) is subject to valid existing rights; and
  - (B) does not include the mineral estate.
- (c) USE OF CONVEYED LAND.—
- (1) IN GENERAL.—The land conveyed under subsection (b) may be used by the Town for any public purpose authorized in paragraph (2), consistent with the Act of June 14, 1926 (commonly known as the Recreation and Public Purposes Act; 43 U.S.C. 869 et seq.).
  - (2) AUTHORIZED PURPOSES.—The purposes of the conveyance under subsection (b) are to allow the Town to use the conveyed land to provide—
    - (A) a suitable location for the establishment of a centralized off-road vehicle recreation park;
    - (B) the public with opportunities for off-road vehicle recreation, including a location for races, competitive events, training and other commercial services that directly support a centralized off-road vehicle recreation area and Town park; and
    - (C) a designated area and facilities that would discourage unauthorized use of off-highway vehicles in areas that have been identified by the Federal Government, the State of California, or San Bernardino County as containing environmentally sensitive land.
  - (3) DISPOSAL PROHIBITED.—The land conveyed under subsection (b) may not be disposed of by the Town without the approval of the Secretary.

**SEC. 3. CONVEYANCE TO CITY OF TWENTYNINE PALMS, CALIFORNIA.**

- (a) CONVEYANCE REQUIRED.—At the request of the city of Twentynine Palms, California, not later than 1 year after the date of the enactment of this Act, the Secretary of the Interior shall convey to the city of Twentynine Palms, California, without consideration, all right, title, and interest of the United States in and to the surface estate of the land generally depicted as “Proposed Conveyance to Twentynine Palms” on the map entitled “Proposed Conveyance to Twentynine Palms” and dated September 18, 2015.
- (b) EXISTING RIGHTS AND MINERAL ESTATE.—The conveyance under this section—
  - (1) is subject to valid existing rights; and
  - (2) does not include the mineral estate.

**SEC. 4. CONVEYANCE TO CITY OF BARSTOW, CALIFORNIA.**

- (a) CONVEYANCE REQUIRED.—At the request of the city of Barstow, California, not later than 1 year after the date of the enactment of this Act, the Secretary of the Interior shall convey to the city of Barstow, California, without consideration, all right, title, and interest of the United States in and to the surface estate of the land generally depicted as “Proposed Conveyance” on the map entitled “Proposed Conveyance to the City of Barstow” and dated January 13, 2017.
- (b) EXISTING RIGHTS AND MINERAL ESTATE.—The conveyance under this section—
  - (1) is subject to valid existing rights; and
  - (2) does not include the mineral estate.

**SEC. 5. CONVEYANCE TO CITY OF VICTORVILLE, CALIFORNIA.**

- (a) CONVEYANCE REQUIRED.—At the request of the city of Victorville, California, not later than 1 year after the date of the enactment of this Act, the Secretary of the Interior shall convey to the city of Victorville, California, without consideration, all right, title, and interest of the United States in and to the surface estate of the land generally depicted as “Proposed Conveyance” on the map entitled “Proposed Conveyance to the City of Victorville” and dated April 25, 2017.
- (b) EXISTING RIGHTS AND MINERAL ESTATE.—The conveyance under this subsection—
  - (1) is subject to valid existing rights;
  - (2) does not include the mineral estate; and
  - (3) is subject to the reservation of a permanent easement and right of way for flood control, utility, pipeline, or telecommunications facilities located within the strips of land described in the right of way grant from the United States Department of the Interior to Pacific Gas and Electric Company, Serial Number R 06259, dated March 2, 1965, and the easement from J. Harley Long to Pacific Gas and Electric Company, dated February 4, 1957, and recorded in Book 4192, Official Records at page 42, San Bernardino County Records. These easements include the right, at any time and from time to time, to construct, reconstruct, maintain, operate, replace, remove, repair, renew, and enlarge facilities for public utility purposes, the right to trim and cut down trees and brush that the public utility may deem to be a hazard to its facilities, and the requirement that the strips of land be kept open and free of buildings, structures, and wells of any kind.

## PURPOSE OF THE BILL

The purpose of H.R. 2365 is to convey certain Federal land in California to Apple Valley, California, Twentynine Palms, California, Barstow, California, and Victorville, California.

## BACKGROUND AND NEED FOR LEGISLATION

Like many cities and towns in the California desert, the communities of Apple Valley, Barstow, Twentynine Palms, and Victorville are set amidst an extensive land ownership pattern dominated by the federal government. In some cases, these federally-managed lands provide tremendous opportunity for outdoor recreation, such as off-highway vehicle use. In other cases, they are impeding the surrounding communities from responding to the pressures of population growth and fostering economic development. To meet key economic, community development, and recreation needs, H.R. 2365 would convey parcels of land currently managed by the Bureau of Land Management (BLM) to local governments.

H.R. 2365 would require that BLM convey to Apple Valley approximately 4,630 acres of BLM-managed land located north and east of the town center. The conveyance would occur within five years of enactment, would be subject to valid existing rights, and would not include subsurface interests. The lands conveyed would be managed by the town as the Apple Valley Off-Highway Vehicle Recreation Area and would be used for off-road vehicles, competitive races, training and other recreation. According to town officials, the lands conveyed are already heavily used by off-road vehicles and managing this use will allow the town to meet obligations set forth in an Endangered Species Act Multi-Species Habitat Conservation Plan/Community Conservation Plan.<sup>1</sup>

H.R. 2365 would also require that BLM convey to Twentynine Palms approximately 80 acres located east of the city. The conveyance would occur within one year of enactment. The conveyed land would be subject to valid existing rights and would exclude subsurface interests. The parcel is located adjacent to an area known as the 29 Palms Motorsports Arena, which annually hosts the Hilltoppers Motorcycle Club Grand Prix, which draws more than 1,200 racers<sup>2</sup> and 5,000 attendees.<sup>3</sup> According to local officials, the conveyed land will allow for more publicly accessible race events, which will bring much-needed economic stimulus to the area.

H.R. 2365 would also require BLM to convey to Barstow approximately 320 acres of BLM-managed land located entirely within the incorporated city limits. The conveyance would occur within one year of enactment, would be subject to valid existing rights, and would exclude subsurface interests. According to city officials, the parcel would contribute to improved vehicular circulation and reduced traffic congestion by allowing for secondary access to a key town center. This parcel is located adjacent to the I-15 freeway and its commercial development is estimated to bring in as much as \$1,000,000 annually in sales tax revenue for Barstow. According to City Manager Charles Mitchell, the parcel “is one of the most im-

<sup>1</sup> Letter from Scott Nassif, Town of Apple Valley Mayor, to Representative Paul Cook (June 13, 2017).

<sup>2</sup> *Hilltoppers Motorcycle Club*, <http://hilltoppersmc.com/> (last visited May 3, 2018).

<sup>3</sup> Letter from John E. Cole, City of Twentynine Palms Mayor, to Representative Paul Cook (May 18, 2017).

portant pieces of vacant property in Barstow and its acquisition and development would be highly beneficial to [the] economically distressed community.”<sup>4</sup>

Finally, H.R. 2365 would require BLM to convey to Victorville approximately 3,200 acres located either within the city limits or its sphere of influence. The conveyance would occur within one year of enactment, conveyed land would be subject to valid existing rights, and excludes subsurface interests. According to city officials, the conveyance would contribute to the Victorville’s master plan, which is designed to respond to projected population growth and serve as a transit hub between a planned high-speed passenger rail network connecting southern Californian communities to Las Vegas, Nevada. Other conveyed parcels would be used for wastewater treatment, increased transportation access, and light industrial development.<sup>5</sup>

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This Act may be cited as the “Desert Community Lands Act”.

##### *Section 2. Conveyance for Apple Valley Off-Highway Vehicle Recreation Area*

This section requires that no later than five years from enactment, the Secretary of the Interior conveys to the Town of Apple Valley, California, approximately 4,630 acres of land to be known as the Apple Valley Off-Highway Vehicle (OHV) Recreation Area. Conveyed lands would be subject to valid existing rights and would not include the underlying mineral estate. Conveyed lands would be used by Apple Valley for any public purpose related to the establishment of an off-road vehicle recreation park; the provision of off-road vehicle recreation, including races and competitive events; and the designation of an area to discourage unauthorized use of OHVs in areas that contain environmentally sensitive land. Lands conveyed are prohibited from disposal by the town, unless approved by the Secretary of the Interior.

##### *Section 3. Conveyance to city of Twentynine Palms, California*

This section requires that no later than one year from enactment, the Secretary of the Interior conveys to the city of Twentynine Palms, California, approximately 80 acres of land, which would be subject to valid existing rights and would not include the underlying mineral estate.

##### *Section 4. Conveyance to city of Barstow, California*

This section requires that no later than one year from enactment, the Secretary of the Interior conveys to the city of Barstow, California, approximately 320 acres of land, which would be subject to valid existing rights and would not include the underlying mineral estate.

<sup>4</sup> Letter from Charles C. Mitchell, Barstow City Manager, to Representative Paul Cook (May 23, 2017).

<sup>5</sup> Letter from Gloria Garcia, City of Victorville Mayor, to Natural Resources Committee Chairman Rob Bishop (May 17, 2017).

*Section 5. Conveyance to city of Victorville, California*

This section requires that no later than one year from enactment, the Secretary of the Interior conveys to the city of Victorville, California, approximately 3,200 acres of land, which would be subject to valid existing rights and would not include the underlying mineral estate. The conveyance is also subject to a permanent easement and right-of-way for flood control, utility, pipeline or telecommunications facilities.

COMMITTEE ACTION

H.R. 2365 was introduced on May 4, 2017, by Congressman Paul Cook (R-CA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Federal Lands. On May 17, 2018, the Subcommittee held a hearing on the legislation. On June 13, 2018, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Congressman Cook offered an amendment designated #1; it was adopted by voice vote. No additional amendments were offered, and the bill, as amended, was ordered favorably reported to the House of Representatives by a roll call vote of 20 yeas and 15 nays, as follows:

**Committee on Natural Resources**  
U.S. House of Representatives  
115th Congress

Date: 06.06.18

Recorded Vote #:2

Meeting on / Amendment on: FC Markup Favorably Report HR 2365 (Rep. Paul Cook)

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
<b>Mr. Bishop, UT, Chairman</b>	X			<b>Mr. Cook, CA</b>	X		
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mr. McEachin, VA</i>		X	
<b>Mr. Young, AK, Chairman Emeritus</b>	X			<b>Mr. Westerman, AR</b>	X		
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. Brown, MD</i>		X	
<b>Mr. Gohmert, TX, Vice Chairman</b>	X			<b>Mr. Graves, LA</b>	X		
<i>Ms. Bordallo, Guam</i>		X		<i>Mr. Clay, MO</i>		X	
<b>Mr. Lamborn, CO</b>	X			<b>Mr. Hice, GA</b>	X		
<i>Mr. Costa, CA</i>	X			<i>Mr. Gomez, CA</i>		X	
<b>Mr. Wittman, VA</b>	X			<b>Mrs. Radewagen, AS</b>			
<i>Mr. Sablan, CNMI</i>		X		<i>Ms. Velázquez, NY</i>			
<b>Mr. McClintock, CA</b>	X			<b>Mr. Webster, FL</b>	X		
<i>Ms. Tsongas, MA</i>				<b>Mr. Bergman, MI</b>			
<b>Mr. Pearce, NM</b>				<b>Ms. Cheney, WY</b>	X		
<i>Mr. Huffman, CA</i>		X		<b>Mr. Johnson, LA</b>			
<b>Mr. Thompson, PA</b>	X			<b>Ms. González-Colón, PR</b>	X		
<i>Mr. Lowenthal, CA</i>		X		<b>Mr. Gianforte, MT</b>	X		
<b>Mr. Gosar, AZ</b>	X			<b>Mr. Curtis, UT</b>	X		
<i>Mr. Beyer, VA</i>		X					
<b>Mr. Labrador, ID</b>							
<i>Mr. Gallego, AZ</i>		X					
<b>Mr. Tipton, CO</b>	X						
<i>Ms. Hanabusa, HI</i>		X					
<b>Mr. LaMalfa, CA</b>	X						
<i>Ms. Barragán, CA</i>		X					
<b>Mr. Denham, CA</b>							
<i>Mr. Soto, FL</i>		X		<b>TOTAL:</b>	20	15	

## COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

## COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 9, 2018.*

Hon. ROB BISHOP,  
*Chairman, Committee on Natural Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2365, the Desert Community Lands Act.

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

Sincerely,

MARK P. HADLEY  
(For Keith Hall, Director).

Enclosure.

*H.R. 2365—Desert Community Lands Act*

H.R. 2365 would require the Bureau of Land Management (BLM) to convey, without consideration, up to 8,200 acres of federal land to several cities in California. At the request of the affected cities, BLM would be required to convey up to four parcels of land ranging in size from 80 acres to 4,630 acres to the cities of Twentynine Palms, Barstow, Victorville, and Apple Valley. Under the bill, BLM would be required to cover any administrative costs associated with completing the conveyances. Using information provided by the agency, CBO estimates that administering the conveyances would cost less than \$500,000; such spending would be subject to the availability of appropriated funds.

Enacting the bill could reduce offsetting receipts, which are treated as reductions in direct spending, from rentals associated with rights-of-way on each parcel; however, using information provided by BLM, CBO estimates that any reduction in receipts would total less than \$50,000 a year. Because enacting H.R. 2365 could affect direct spending pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

CBO estimates that enacting H.R. 2365 would not significantly increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

H.R. 2365 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was reviewed by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to convey certain Federal land in California to Apple Valley, California, Twentynine Palms, California, Barstow, California, and Victorville, California.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

#### COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

#### COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

#### CHANGES IN EXISTING LAW

If enacted, this bill would make no changes to existing law.



## DISSENTING VIEWS

H.R. 2365 is another Republican proposal to transfer a significant amount of public land without any form of compensation. The bill authorizes four conveyances, totaling over 6000 acres, to promote access for recreation and economic development opportunities in San Bernardino County, California.

This is a worthy goal, but it does not justify transferring land without any consideration for its value, either economic or ecological.

Congress has a longstanding tradition of providing states and municipal governments with public land for specific public purposes, but federal land belongs to all Americans, and Congress has a responsibility to ensure that our constituents receive fair treatment whenever we consider a conveyance or any other proposal to dispose of federal land. There are situations in which a transfer or conveyance makes both economic and ecological sense, but we must ensure some form of compensation or guarantee that it will remain in public use.

H.R. 2365 fails to include these important requirements.

For example, the conveyance to the City of Apple Valley references the Recreation and Public Purpose Act (RPPA), a longstanding law that authorizes the BLM to provide local governments with land for certain public purposes. A conveyance under this title must be permanently used for a public purpose or ownership reverts to the United States. In addition to a standard reversionary clause, which the bill does not include, conveyances under the RPPA require a restriction on commercial activity on the conveyed land, another criterion the bill ignores. So, while it includes a reference to the Recreation and Public Purposes Act, it clearly does not follow the letter or spirit of that law.

The remaining three conveyances authorized by the bill transfer federal land without any survey to determine the value or any form of compensation. This goes against reasonable standards for land conveyances established to ensure fair consideration of assets owned by all Americans.

We welcome the opportunity to work with the majority to ensure that this bill includes these critical safeguards.

RAÚL M. GRIJALVA,  
*Ranking Member, House  
Committee on Natural Re-  
sources.*

GRACE F. NAPOLITANO.

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