

LINCOLN COUNTY CONSERVATION, RECREATION, AND  
DEVELOPMENT ACT OF 2004

OCTOBER 4, 2004.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources,  
submitted the following

R E P O R T

[To accompany H.R. 4593]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4593) to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes, 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 “Lincoln County Conservation, Recreation, and Development Act of 2004”.

**SEC. 2. TABLE OF CONTENTS.**

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—LAND DISPOSAL

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- Sec. 102. Conveyance of Lincoln County land.
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- Sec. 204. Administration.
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- Sec. 210. Wildfire management.
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## TITLE III—UTILITY CORRIDORS

- Sec. 301. Utility corridor and rights-of-way.  
 Sec. 302. Relocation of right-of-way and utility corridors located in Clark and Lincoln Counties in the State of Nevada.

## TITLE IV—SILVER STATE OFF-HIGHWAY VEHICLE TRAIL

- Sec. 401. Silver State off-highway vehicle trail.

## TITLE V—OPEN SPACE PARKS

- Sec. 501. Open space park conveyance to Lincoln County, Nevada.  
 Sec. 502. Open space park conveyance to the State of Nevada.

## TITLE VI—JURISDICTION TRANSFER

- Sec. 601. Transfer of administrative jurisdiction between the Fish and Wildlife Service and the Bureau of Land Management.

**TITLE I—LAND DISPOSAL****SEC. 101. DEFINITIONS.**

In this title:

- (1) COUNTY.—The term “County” means Lincoln County, Nevada.
- (2) MAP.—The term “map” means the map entitled “Lincoln County Conservation, Recreation, and Development Act Map” and dated June 14, 2004.
- (3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
- (4) SPECIAL ACCOUNT.—The term “special account” means the special account established under section 103(b)(3).

**SEC. 102. CONVEYANCE OF LINCOLN COUNTY LAND.**

(a) IN GENERAL.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1712), the Secretary, in cooperation with the County, in accordance with that Act, this title, and other applicable law and subject to valid existing rights, shall conduct sales of—

- (1) the land described in subsection (b)(1) to qualified bidders not later than 75 days after the date of the enactment of this Act; and
- (2) the land described in subsection (b)(2) to qualified bidders as such land becomes available for disposal.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of—

- (1) the land identified on the map as “Tract A” and “Tract B” totaling approximately 13,328 acres; and
- (2) between 87,000 and 90,000 acres of Bureau of Land Management-managed public land in Lincoln County identified for disposal by the Bureau of Land Management either through—
  - (A) the Ely Resource Management Plan (intended to be finalized in 2005);
  - or
  - (B) a subsequent amendment to that land use plan undertaken with full public involvement.

(c) AVAILABILITY.—Each map and legal description shall be on file and available for public inspection in (as appropriate)—

- (1) the Office of the Director of the Bureau of Land Management;
- (2) the Office of the Nevada State Director of the Bureau of Land Management;
- (3) the Ely Field Office of the Bureau of Land Management; and
- (4) the Caliente Field Station of the Bureau of Land Management.

(d) JOINT SELECTION REQUIRED.—The Secretary and the County shall jointly select which parcels of land described in subsection (b)(2) to offer for sale under subsection (a).

(e) COMPLIANCE WITH LOCAL PLANNING AND ZONING LAWS.—Before a sale of land under subsection (a), the County shall submit to the Secretary a certification that qualified bidders have agreed to comply with—

- (1) County and city zoning ordinances; and
- (2) any master plan for the area approved by the County.

(f) METHOD OF SALE; CONSIDERATION.—The sale of land under subsection (a) shall be—

- (1) through a competitive bidding process unless otherwise determined by the Secretary; and
- (2) for not less than fair market value.

(g) WITHDRAWAL.—

- (1) IN GENERAL.—Subject to valid existing rights and except as provided in paragraph (2), the land described in subsection (b) is withdrawn from—

(A) all forms of entry and appropriation under the public land laws, including the mining laws; and

(B) operation of the mineral leasing and geothermal leasing laws.

(2) EXCEPTION.—Paragraph (1)(A) shall not apply to a competitive sale or an election by the County to obtain the land described in subsection (b) for public purposes under the Act of June 14, 1926 (43 U.S.C. 869 et seq; commonly known as the “Recreation and Public Purposes Act”).

(h) DEADLINE FOR SALE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall—

(A) notwithstanding the Lincoln County Land Act of 2000 (114 Stat. 1046), not later than 75 days after the date of the enactment of this title, offer by sale the land described in subsection (b)(1) if there is a qualified bidder for such land; and

(B) offer for sale annually lands identified for sale in subsection (b)(2) until such lands are disposed of or unless the county requests a postponement under paragraph (2).

(2) POSTPONEMENT; EXCLUSION FROM SALE.—

(A) REQUEST BY COUNTY FOR POSTPONEMENT OR EXCLUSION.—At the request of the County, the Secretary shall postpone or exclude from the sale all or a portion of the land described in subsection (b)(2).

(B) INDEFINITE POSTPONEMENT.—Unless specifically requested by the County, a postponement under subparagraph (A) shall not be indefinite.

#### SEC. 103. DISPOSITION OF PROCEEDS.

(a) INITIAL LAND SALE.—Section 5 of the Lincoln County Land Act of 2000 (114 Stat. 1047) shall apply to the disposition of the gross proceeds from the sale of land described in section 102.

(b) SUBSEQUENT LAND SALES.—Of the gross proceeds of the sale of the land described in section 102(b)(2)—

(1) 5 percent shall be paid directly to the State for use in the general education program of the State;

(2) 45 percent shall be paid to the County for use for economic development in the County, including County parks, trails, and natural areas; and

(3) the remainder shall be deposited in a special account in the Treasury of the United States and shall be available without further appropriation to the Secretary until expended for—

(A) the inventory, evaluation, protection, and management of unique archaeological resources (as defined in section 3 of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb)) of the County;

(B) the development and implementation of a multispecies habitat conservation plan for the County; and

(C) the reimbursement of costs incurred by the Nevada State Office and the Ely Field Office of the Bureau of Land Management for—

(i) preparing for the sale of land under section 103(a), including the costs of—

(I) conducting any land boundary surveys;

(II) complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(III) conducting any appraisals;

(IV) obtaining environmental and cultural clearances; and

(V) providing public notice of the sale;

(ii) processing public land use authorizations and rights-of-way relating to the development of the land conveyed under section 102(b)(2);

(iii) processing the Silver State OHV trail and implementing the management plan required by section 401(c)(2) of this Act; and

(iv) processing wilderness designations, including but not limited to, the costs of appropriate fencing, signage, public education, and enforcement for the wilderness areas designated.

(c) INVESTMENT OF SPECIAL ACCOUNT.—Any amounts deposited in the special account shall earn interest in an 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 and may be expended according to the provisions of this section.

## TITLE II—WILDERNESS AREAS

#### SEC. 201. FINDINGS.

Congress finds that—

- (1) public land in the County contains unique and spectacular natural resources, including—
  - (A) priceless habitat for numerous species of plants and wildlife; and
  - (B) thousands of acres of land that remain in a natural state; and
- (2) continued preservation of those areas would benefit the County and all of the United States by—
  - (A) ensuring the conservation of ecologically diverse habitat;
  - (B) protecting prehistoric cultural resources;
  - (C) conserving primitive recreational resources; and
  - (D) protecting air and water quality.

**SEC. 202. DEFINITIONS.**

In this title:

- (1) COUNTY.—The term “County” means Lincoln County, Nevada.
- (2) SECRETARY.—The term “Secretary” means the Secretary of the Interior.
- (3) STATE.—The term “State” means the State of Nevada.

**SEC. 203. ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM.**

(a) ADDITIONS.—The following land in the State is designated as wilderness and as components of the National Wilderness Preservation System:

(1) MORMON MOUNTAINS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 149,677 acres, as generally depicted on the map entitled “Lincoln County Conservation, Recreation, and Development Act Map”, dated September 20, 2004, which shall be known as the “Mormon Mountains Wilderness”.

(2) MEADOW VALLEY RANGE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 124,833 acres, as generally depicted on the map entitled “Southern Lincoln County Wilderness Map”, dated June 1, 2004, which shall be known as the “Meadow Valley Range Wilderness”.

(3) DELAMAR MOUNTAINS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 111,389 acres, as generally depicted on the map entitled “Southern Lincoln County Wilderness Map”, dated June 1, 2004, which shall be known as the “Delamar Mountains Wilderness”.

(4) CLOVER MOUNTAINS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 85,757 acres, as generally depicted on the map entitled “Southern Lincoln County Wilderness Map”, dated June 1, 2004, which shall be known as the “Clover Mountains Wilderness”.

(5) SOUTH PAHROC RANGE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 25,638 acres, as generally depicted on the map entitled “Western Lincoln County Wilderness Map”, dated June 1, 2004, which shall be known as the “South Pahroc Range Wilderness”.

(6) WORTHINGTON MOUNTAINS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 30,936 acres, as generally depicted on the map entitled “Western Lincoln County Wilderness Map”, dated June 1, 2004, which shall be known as the “Worthington Mountains Wilderness”.

(7) WEEPAPAH SPRING WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 51,117 acres, as generally depicted on the map entitled “Western Lincoln County Wilderness Map”, dated June 1, 2004, which shall be known as the “Weepah Spring Wilderness”.

(8) PARSNIP PEAK WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 45,837 acres, as generally depicted on the map entitled “Northern Lincoln County Wilderness Map”, dated June 1, 2004, which shall be known as the “Parsnip Peak Wilderness”.

(9) WHITE ROCK RANGE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 24,413 acres, as generally depicted on the map entitled “Northern Lincoln County Wilderness Map”, dated June 1, 2004, which shall be known as the “White Rock Range Wilderness”.

(10) FORTIFICATION RANGE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 28,837 acres, as generally depicted on the map entitled “Northern Lincoln County Wilderness Map”, dated June 1, 2004, which shall be known as the “Fortification Range Wilderness”.

(11) FAR SOUTH EGANS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 36,384 acres, as gen-

erally depicted on the map entitled “Northern Lincoln County Wilderness Map”, dated June 1, 2004, which shall be known as the “Far South Egans Wilderness”.

(12) TUNNEL SPRING WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 5,530 acres, as generally depicted on the map entitled “Southern Lincoln County Wilderness Map”, dated June 1, 2004, which shall be known as the “Tunnel Spring Wilderness”.

(b) BOUNDARY.—The boundary of any portion of a wilderness area designated by subsection (a) that is bordered by a road shall be at least 100 feet from the edge of the road to allow public access.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this title, the Secretary shall file a map and legal description of each wilderness area designated by subsection (a) with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) EFFECT.—Each map and legal description shall have the same force and effect as if included in this section, except that the Secretary may correct clerical and typographical errors in the map or legal description.

(3) AVAILABILITY.—Each map and legal description shall be on file and available for public inspection in (as appropriate)—

- (A) the Office of the Director of the Bureau of Land Management;
- (B) the Office of the Nevada State Director of the Bureau of Land Management;
- (C) the Ely Field Office of the Bureau of Land Management; and
- (D) the Caliente Field Station of the Bureau of Land Management.

(d) WITHDRAWAL.—Subject to valid existing rights, the wilderness areas designated by subsection (a) are withdrawn from—

- (1) all forms of entry, appropriation, and disposal under the public land laws;
- (2) location, entry, and patent under the mining laws; and
- (3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

#### SEC. 204. ADMINISTRATION.

(a) MANAGEMENT.—Subject to valid existing rights, each area designated as wilderness by this title shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

- (1) any reference in that Act to the effective date shall be considered to be a reference to the date of the enactment of this title; and
- (2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior.

(b) LIVESTOCK.—Within the wilderness areas designated under this title that are administered by the Bureau of Land Management, the grazing of livestock in areas in which grazing is established as of the date of enactment of this title shall be allowed to continue, subject to such reasonable regulations, policies, and practices that the Secretary considers necessary, consistent with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), including the guidelines set forth in Appendix A of House Report 101–405.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land or interest in land within the boundaries of an area designated as wilderness by this title that is acquired by the United States after the date of the enactment of this title shall be added to and administered as part of the wilderness area within which the acquired land or interest is located.

(d) WATER RIGHTS.—

(1) FINDINGS.—Congress finds that—

(A) the land designated as Wilderness by this title is within the Northern Mojave Desert, and Great Basin Deserts, is arid in nature, and includes ephemeral streams;

(B) the hydrology of the land designated as wilderness by this title is predominantly characterized by complex flow patterns and alluvial fans with impermanent channels;

(C) the subsurface hydrogeology of the region is characterized by ground water subject to local and regional flow gradients and unconfined and artesian conditions;

(D) the land designated as wilderness by this title is generally not suitable for use or development of new water resource facilities; and

(E) because of the unique nature and hydrology of the desert land designated as wilderness by this title, it is possible to provide for proper management and protection of the wilderness and other values of lands in ways different from those used in other legislation.

## (2) STATUTORY CONSTRUCTION.—Nothing in this title—

(A) shall constitute or be construed to constitute either an express or implied reservation by the United States of any water or water rights with respect to the land designated as wilderness by this title;

(B) shall affect any water rights in the State existing on the date of the enactment of this title, including any water rights held by the United States;

(C) shall be construed as establishing a precedent with regard to any future wilderness designations;

(D) shall affect the interpretation of, or any designation made pursuant to, any other Act; or

(E) shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State and other States.

(3) NEVADA WATER LAW.—The Secretary shall follow the procedural and substantive requirements of the law of the State in order to obtain and hold any water rights not in existence on the date of enactment of this title with respect to the wilderness areas designated by this title.

## (4) NEW PROJECTS.—

(A) WATER RESOURCE FACILITY.—As used in this paragraph, the term “water resource facility”—

(i) means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydro-power projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures; and

(ii) does not include wildlife guzzlers.

(B) RESTRICTION ON NEW WATER RESOURCE FACILITIES.—Except as otherwise provided in this Act, on and after the date of the enactment of this Act, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource facility within the wilderness areas designated by this Act.

**SEC. 205. ADJACENT MANAGEMENT.**

(a) IN GENERAL.—Congress does not intend for the designation of wilderness in the State pursuant to this title to lead to the creation of protective perimeters or buffer zones around any such wilderness area.

(b) NONWILDERNESS ACTIVITIES.—The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness designated under this title shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.

**SEC. 206. MILITARY OVERFLIGHTS.**

Nothing in this title restricts or precludes—

(1) low-level overflights of military aircraft over the areas designated as wilderness by this title, including military overflights that can be seen or heard within the wilderness areas;

(2) flight testing and evaluation; or

(3) the designation or creation of new units of special use airspace, or the establishment of military flight training routes, over the wilderness areas.

**SEC. 207. NATIVE AMERICAN CULTURAL AND RELIGIOUS USES.**

Nothing in this title shall be construed to diminish the rights of any Indian tribe. Nothing in this title shall be construed to diminish tribal rights regarding access to Federal land for tribal activities, including spiritual, cultural, and traditional food-gathering activities.

**SEC. 208. RELEASE OF WILDERNESS STUDY AREAS.**

(a) FINDING.—Congress finds that, for the purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), the public land in the County administered by the Bureau of Land Management in the following areas has been adequately studied for wilderness designation:

(1) The Table Mountain Wilderness Study Area.

(2) Evergreen A, B, and C Wilderness Study Areas.

(3) Any portion of the wilderness study areas—

(A) not designated as wilderness by section 204(a); and

(B) depicted as released on—

(i) the map entitled “Northern Lincoln County Wilderness Map” and dated June 1, 2004;

(ii) the map entitled “Southern Lincoln County Wilderness Map” and dated June 1, 2004; or

- (iii) the map entitled “Western Lincoln County Wilderness Map” and dated June 1, 2004.
- (b) RELEASE.—Any public land described in subsection (a) that is not designated as wilderness by this title—
  - (1) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c));
  - (2) shall be managed in accordance with—
    - (A) land management plans adopted under section 202 of that Act (43 U.S.C. 1712); and
    - (B) existing cooperative conservation agreements; and
  - (3) shall be subject to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

**SEC. 209. WILDLIFE MANAGEMENT.**

(a) IN GENERAL.—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this title affects or diminishes the jurisdiction of the State with respect to fish and wildlife management, including the regulation of hunting, fishing, and trapping, in the wilderness areas designated by this title.

(b) MANAGEMENT ACTIVITIES.—In furtherance of the purposes and principles of the Wilderness Act, management activities to maintain or restore fish and wildlife populations and the habitats to support such populations may be carried out within wilderness areas designated by this title where consistent with relevant wilderness management plans, in accordance with appropriate policies such as those set forth in Appendix B of House Report 101–405, including the occasional and temporary use of motorized vehicles, if such use, as determined by the Secretary, would promote healthy, viable, and more naturally distributed wildlife populations that would enhance wilderness values and accomplish those purposes with the minimum impact necessary to reasonably accomplish the task.

(c) EXISTING ACTIVITIES.—Consistent with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)) and in accordance with appropriate policies such as those set forth in Appendix B of House Report 101–405, the State may continue to use aircraft, including helicopters, to survey, capture, transplant, monitor, and provide water for wildlife populations, including bighorn sheep, and feral stock, horses, and burros.

(d) WILDLIFE WATER DEVELOPMENT PROJECTS.—Subject to subsection (f), the Secretary shall authorize structures and facilities, including existing structures and facilities, for wildlife water development projects, including guzzlers, in the wilderness areas designated by this Act if—

- (1) the structures and facilities will, as determined by the Secretary, enhance wilderness values by promoting healthy, viable, and more naturally distributed wildlife populations; and
- (2) the visual impacts of the structures and facilities on the wilderness areas can reasonably be minimized.

(e) HUNTING, FISHING, AND TRAPPING.—In consultation with the appropriate State agency (except in emergencies), the Secretary may designate by regulation areas in which, and establish periods during which, for reasons of public safety, administration, or compliance with applicable laws, no hunting, fishing, or trapping will be permitted in the wilderness areas designated by this Act.

(f) COOPERATIVE AGREEMENT.—The terms and conditions under which the State, including a designee of the State, may conduct wildlife management activities in the wilderness areas designated by this title are specified in the cooperative agreement between the Secretary and the State, entitled “Memorandum of Understanding between the Bureau of Land Management and the Nevada Department of Wildlife Supplement No. 9,” and signed November and December 2003, including any amendments to that document agreed upon by the Secretary and the State and subject to all applicable laws and regulations. Any references to Clark County in that document shall also be deemed to be referred to and shall apply to Lincoln County, Nevada.

**SEC. 210. WILDFIRE MANAGEMENT.**

Consistent with section 4 of the Wilderness Act (16 U.S.C. 1133), nothing in this title precludes a Federal, State, or local agency from conducting wildfire management operations (including operations using aircraft or mechanized equipment) to manage wildfires in the wilderness areas designated by this title.

**SEC. 211. CLIMATOLOGICAL DATA COLLECTION.**

Subject to such terms and conditions as the Secretary may prescribe, nothing in this title precludes the installation and maintenance of hydrologic, meteorologic, or climatological collection devices in the wilderness areas designated by this title if the facilities and access to the facilities are essential to flood warning, flood control, and water reservoir operation activities.

## TITLE III—UTILITY CORRIDORS

### SEC. 301. UTILITY CORRIDOR AND RIGHTS-OF-WAY.

#### (a) UTILITY CORRIDOR.—

(1) IN GENERAL.—Consistent with title II of the Act and notwithstanding sections 202 and 503 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1763), the Secretary of the Interior (referred to in this section as the “Secretary”) shall establish on public land a 2,640-foot wide corridor for utilities in Lincoln County and Clark County, Nevada, as generally depicted on the map entitled “Lincoln County Conservation, Recreation, and Development Act”, and dated June 14, 2004.

(2) AVAILABILITY.—Each map and legal description shall be on file and available for public inspection in (as appropriate)—

- (A) the Office of the Director of the Bureau of Land Management;
- (B) the Office of the Nevada State Director of the Bureau of Land Management;
- (C) the Ely Field Office of the Bureau of Land Management; and
- (D) the Caliente Field Station of the Bureau of Land Management.

#### (b) RIGHTS-OF-WAY.—

(1) IN GENERAL.—Notwithstanding sections 202 and 503 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1763) and subject to valid existing rights, the Secretary shall grant to the Southern Nevada Water Authority and the Lincoln County Water District nonexclusive rights-of-way to Federal land in Lincoln County and Clark County, Nevada, for any roads, wells, well fields, pipes, pipelines, pump stations, storage facilities, or other facilities and systems that are necessary for the construction and operation of a water conveyance system, as depicted on the map.

(2) APPLICABLE LAW.—A right-of-way granted under paragraph (1) shall be granted in perpetuity and shall not require rental payment.

(3) COMPLIANCE WITH NEPA.—Before granting a right-of-way under paragraph (1), the Secretary shall comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including the identification and consideration of potential impacts to fish and wildlife resources and habitat.

#### (c) WITHDRAWAL.—Subject to valid existing rights, the utility corridors designated by subsection (a) are withdrawn from—

- (1) all forms of entry, appropriation, and disposal under the public land laws;
- (2) location, entry, and patent under the mining laws; and
- (3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

#### (d) STATE WATER LAW.—Nothing in this title shall—

- (1) prejudice the decisions or abrogate the jurisdiction of the Nevada State Engineer with respect to the appropriation, permitting, certification, or adjudication of water rights;
- (2) preempt Nevada State water law; or
- (3) limit or supersede existing water rights or interest in water rights under Nevada State law.

#### (e) WATER RESOURCES STUDY.—

(1) IN GENERAL.—The Secretary, acting through the United States Geological Survey and the Desert Research Institute, shall conduct a study to investigate ground water quantity, quality, and flow characteristics in the deep carbonate and alluvial aquifers of White Pine County, Nevada. The study shall—

- (A) include new and review of existing data;
- (B) determine the volume of water stored in aquifers in those areas;
- (C) determine the discharge and recharge characteristics of each aquifer system;
- (D) determine the hydrogeologic and other controls that govern the discharge and recharge of each aquifer system; and
- (E) develop maps at a consistent scale depicting aquifer systems and the recharge and discharge areas of such systems.

(2) TIMING; AVAILABILITY.—The Secretary shall complete a draft of the water resources report required under paragraph (1) not later than 30 months after the date of the enactment of this Act. The Secretary shall then make the draft report available for public comment for a period of not less than 60 days. The final report shall be submitted to the Committee on Resources in the House of Representatives and the Committee on Energy and Natural Resources in the Senate and made available to the public not later than 36 months after the date of the enactment of this Act.



**SEC. 302. RELOCATION OF RIGHT-OF-WAY AND UTILITY CORRIDORS LOCATED IN CLARK AND LINCOLN COUNTIES IN THE STATE OF NEVADA.**

(a) **DEFINITIONS.**—In this section:

(1) **AGREEMENT.**—The term “Agreement” means the land exchange agreement between Aerojet-General Corporation and the United States, dated July 14, 1988.

(2) **CORRIDOR.**—The term “corridor” means—

(A) the right-of-way corridor that is—

(i) identified in section 5(b)(1) of the Nevada-Florida Land Exchange Authorization Act of 1988 (102 Stat. 55); and

(ii) described in section 14(a) of the Agreement;

(B) such portion of the utility corridor identified in the 1988 Las Vegas Resource Management Plan located south of the boundary of the corridor described in subparagraph (A) as is necessary to relocate the right-of-way corridor to the area described in subsection (c)(2); and

(C) such portion of the utility corridor identified in the 2000 Caliente Management Framework Plan Amendment located north of the boundary of the corridor described in subparagraph (A) as is necessary to relocate the right-of-way corridor to the area described in subsection (c)(2).

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(b) **RELINQUISHMENT AND FAIR MARKET VALUE.**—

(1) **IN GENERAL.**—The Secretary shall, in accordance with this section, relinquish all right, title, and interest of the United States in and to the portion of the corridor described in section 302(a)(2)(A) not later than 30 days after receipt of a payment in an amount equal to the fair market value of the corridor (plus any costs relating to the right-of-way relocation described in this title).

(2) **FAIR MARKET VALUE.**—

(A) **IN GENERAL.**—The fair market value of the corridor shall be equal to the amount by which the value of the discount described in the 1988 appraisal of the corridor that was applied to the land underlying the corridor has increased, as determined by the Secretary using the multiplier determined under subparagraph (B).

(B) **MULTIPLIER.**—Not later than 60 days after the date of enactment of this Act, the Appraisal Services Directorate of the Department of the Interior shall determine an appropriate multiplier to reflect the change in the value of the land underlying the corridor between—

(i) the date on which the corridor was transferred in accordance with the Agreement; and

(ii) the date of enactment of this Act.

(3) **PROCEEDS.**—Proceeds under this subsection shall be deposited in the account established under section 103.

(c) **RELOCATION.**—

(1) **IN GENERAL.**—The Secretary shall relocate to the area described in paragraph (2), the portion of IDI-26446 and UTU-73363 identified as NVN-49781 that is located in the corridor relinquished under subsection (b)(1).

(2) **DESCRIPTION OF AREA.**—The area referred to in paragraph (1) is the area located on public land west of United States Route 93.

(3) **REQUIREMENTS.**—The relocation under paragraph (1) shall be conducted in a manner that—

(A) minimizes engineering design changes; and

(B) maintains a gradual and smooth interconnection of the corridor with the area described in paragraph (2).

(4) **AUTHORIZED USES.**—The Secretary may authorize the location of any above ground or underground utility facility, transmission lines, gas pipelines, natural gas pipelines, fiber optics, telecommunications, water lines, wells (including monitoring wells), cable television, and any related appurtenances in the area described in paragraph (1).

(d) **EFFECT.**—The relocation of the corridor under this section shall not require the Secretary to update the 1998 Las Vegas Valley Resource Management Plan or the 2000 Caliente Management Framework Plan Amendment.

(e) **WAIVER OF CERTAIN REQUIREMENTS.**—The Secretary shall waive the requirements of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) that would otherwise be applicable to the holders of the right-of-way corridor described in subsection (a)(2)(A) with respect to an amendment to the legal description of the right-of-way corridor.

## TITLE IV—SILVER STATE OFF-HIGHWAY VEHICLE TRAIL

### SEC. 401. SILVER STATE OFF-HIGHWAY VEHICLE TRAIL.

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(2) MAP.—The term “Map” means the map entitled “Lincoln County Conservation, Recreation and Development Act Map” and dated June 14, 2004.

(3) TRAIL.—The term “Trail” means the system of trails designated in subsection (b) as the Silver State Off-Highway Vehicle Trail.

(b) DESIGNATION.—The trails that are generally depicted on the Map are hereby designated as the “Silver State Off-Highway Vehicle Trail”.

(c) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall manage the Trail in a manner that—

(A) is consistent with motorized and mechanized use of the Trail that is authorized on the date of the enactment of this title pursuant to applicable Federal and State laws and regulations;

(B) ensures the safety of the people who use the Trail; and

(C) does not damage sensitive habitat or cultural resources.

(2) MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 3 years after the date of the enactment of this title, the Secretary, in consultation with the State, the County, and any other interested persons, shall complete a management plan for the Trail.

(B) COMPONENTS.—The management plan shall—

(i) describe the appropriate uses and management of the Trail;

(ii) authorize the use of motorized and mechanized vehicles on the Trail; and

(iii) describe actions carried out to periodically evaluate and manage the appropriate levels of use and location of the Trail.

(3) MONITORING AND EVALUATION.—

(A) ANNUAL ASSESSMENT.—The Secretary shall annually assess the effects of the use of off-highway vehicles on the Trail and, in consultation with the Nevada Division of Wildlife, assess the effects of the Trail on wildlife and wildlife habitat to minimize environmental impacts and prevent damage to cultural resources from the use of the Trail.

(B) CLOSURE.—The Secretary, in consultation with the State and the County, may temporarily close or permanently reroute, subject to subparagraph (C), a portion of the Trail if the Secretary determines that—

(i) the Trail is having an adverse impact on—

(I) natural resources; or

(II) cultural resources;

(ii) the Trail threatens public safety;

(iii) closure of the Trail is necessary to repair damage to the Trail;

or

(iv) closure of the Trail is necessary to repair resource damage.

(C) REROUTING.—Portions of the Trail that are temporarily closed may be permanently rerouted along existing roads and trails on public lands currently open to motorized use if the Secretary determines that such rerouting will not significantly increase or decrease the length of the Trail.

(D) NOTICE.—The Secretary shall provide information to the public regarding any routes on the Trail that are closed under subparagraph (B), including by providing appropriate signage along the Trail.

(4) NOTICE OF OPEN ROUTES.—The Secretary shall ensure that visitors to the Trail have access to adequate notice regarding the routes on the Trail that are open through use of appropriate signage along the Trail and through the distribution of maps, safety education materials, and other information considered appropriate by the Secretary.

(d) NO EFFECT ON NON-FEDERAL LAND AND INTERESTS IN LAND.—Nothing in this section shall be construed to affect ownership, management, or other rights related to non-Federal land or interests in land.

(e) MAP ON FILE.—The Map shall be kept on file at the appropriate offices of the Secretary.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

## TITLE V—OPEN SPACE PARKS

### SEC. 501. OPEN SPACE PARK CONVEYANCE TO LINCOLN COUNTY, NEVADA.

(a) CONVEYANCE.—Notwithstanding section 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1171, 1712), the Secretary may convey to the County, subject to valid existing rights, for no consideration, all right title, and interest of the United States in and to the parcels of land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcels of land referred to in subsection (a) are the parcels of land depicted as “Lincoln County Parks Proposal” on the map entitled “Lincoln County Conservation, Recreation, and Development Act Map” and dated June 14, 2004.

(c) COSTS.—Any costs relating to any conveyance under subsection (a), including costs for surveys and other administrative costs, shall be paid by the County, or in accordance with section 104(b)(2) of this Act.

(d) USE OF LAND.—

(1) IN GENERAL.—Any parcel of land conveyed to the County under subsection

(a) shall be used only for—

(A) the conservation of natural resources; or

(B) public parks.

(2) FACILITIES.—Any facility on a parcel of land conveyed under subsection (a) shall be constructed and managed in a manner consistent with the uses described in paragraph (1).

(e) REVERSION.—If a parcel of land conveyed under subsection (a) is used in a manner that is inconsistent with the uses specified in subsection (d), the parcel of land shall, at the discretion of the Secretary, revert to the United States.

### SEC. 502. OPEN SPACE PARK CONVEYANCE TO THE STATE OF NEVADA.

(a) CONVEYANCE.—Notwithstanding section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), the Secretary shall convey to the State of Nevada, subject to valid existing rights, for no consideration, all right, title, and interest of the United States in and to the parcels of land described in subsection (b), if there is a written agreement between the State and Lincoln County, Nevada, supporting such a conveyance.

(b) DESCRIPTION OF LAND.—The parcels of land referred to in subsection (a) are the parcels of land depicted as “NV St. Park Expansion Proposal” on the map entitled “Lincoln County Conservation, Recreation, and Development Act Map” and dated June 14, 2004.

(c) COSTS.—Any costs relating to any conveyance under subsection (a), including costs for surveys and other administrative costs, shall be paid by the State.

(d) USE OF LAND.—

(1) IN GENERAL.—Any parcel of land conveyed to the State under subsection

(a) shall be used only for—

(A) the conservation of natural resources; or

(B) public parks.

(2) FACILITIES.—Any facility on a parcel of land conveyed under subsection (a) shall be constructed and managed in a manner consistent with the uses described in paragraph (1).

(e) REVERSION.—If a parcel of land conveyed under subsection (a) is used in a manner that is inconsistent with the uses specified in subsection (d), the parcel of land shall, at the discretion of the Secretary, revert to the United States.

## TITLE VI—JURISDICTION TRANSFER

### SEC. 601. TRANSFER OF ADMINISTRATIVE JURISDICTION BETWEEN THE FISH AND WILDLIFE SERVICE AND THE BUREAU OF LAND MANAGEMENT.

(a) IN GENERAL.—Administrative jurisdiction over the land described in subsection (b) is transferred from the United States Bureau of Land Management to the United States Fish and Wildlife Service for inclusion in the Desert National Wildlife Range and the administrative jurisdiction over the land described in subsection (c) is transferred from the United States Fish and Wildlife Service to the United States Bureau of Land Management.

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the approximately 8,503 acres of land administered by the United States Bureau of Land Management as generally depicted on the map entitled “Lincoln County Conservation, Recreation, and Development Act Map” and identified as “Lands to be transferred to the Fish and Wildlife Service” and dated June 14, 2004.

(c) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the approximately 8,382 acres of land administered by the United States Fish and Wildlife Service as generally depicted on the map entitled “Lincoln County Conservation, Recreation, and Development Act Map” and identified as “Lands to be transferred to the Bureau of Land Management” and dated June 14, 2004.

(d) AVAILABILITY.—Each map and legal description shall be on file and available for public inspection in (as appropriate)—

- (1) the Office of the Director of the Bureau of Land Management;
- (2) the Office of the Nevada State Director of the Bureau of Land Management;
- (3) the Ely Field Office of the Bureau of Land Management; and
- (4) the Caliente Field Station of the Bureau of Land Management.

#### PURPOSE OF THE BILL

The purpose of H.R. 4593 to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes.

#### BACKGROUND AND NEED FOR LEGISLATION

H.R. 4593 would: (1) Designate roughly 770,000 acres of wilderness and release 245,000 acres of land currently being managed as wilderness study areas in the State of Nevada; (2) create a 260 mile off-highway vehicle trail; (3) establish roughly 450 miles of utility corridors within the Lincoln County, Nevada, for the purposes of designating rights of ways for the Southern Nevada Water Authority and Lincoln County Water District; (4) privatize nearly 87,000 acres of Bureau of Land Management (BLM) and in the County; and (5) convey almost 19,000 acres to the State and Lincoln County for use as parks and open space.

More specifically, H.R. 4593 would direct the Secretary of the Interior, in cooperation with the Lincoln County to conduct sales of certain lands currently being managed by BLM. The lands include two parcels totaling almost 14,000 acres and land previously identified for disposal comprising about 87,000 acres. Proceeds from the sale would be split 5/45/50. Five percent would go to the State of Nevada general education program. Forty-five percent of the proceeds would be re-invested in Lincoln County in the form of economic development and environmental projects. The remaining fifty percent of the proceeds would be deposited into a special account in the U.S. Treasury and earmarked for environmental projects and administrative costs incurred by the Secretary relating to the mandates contained in this bill.

H.R. 4593 would also direct the Secretary to establish a 2,640 foot-wide corridor for utilities in Lincoln and Clark County, Nevada, and in conjunction conduct a study of ground-water in the deep carbonate and alluvial aquifers of White Pine County, Nevada. Authority over the corridor shall be shared between the Southern Nevada Water Authority and the Lincoln County Water District. Also directed is the construction of the Silver State Off-Highway Vehicle Trail. The Secretary must ensure that the trail is consistent with motorized and mechanized use, ensure safety of the people who use the trail and that the trail is sensitive to the habitat and cultural resources. The fifth title of the bill allows for the conveyance of land from the Secretary to Lincoln County and the State of Nevada depicted in the “Lincoln County Parks Proposal” and “NV St. Park Expansion Proposal,” respectively. Land con-

veyed pursuant to these proposals shall only be used for public parks or open space.

Finally, the bill would transfer jurisdiction of an 8,500 acre parcel from the BLM to the United States Fish and Wildlife Service to be included in the Desert National Wildlife Range. Concurrently, a parcel of land approximately 8,300 acres would be transferred from the United States Fish and Wildlife Service to BLM.

#### COMMITTEE ACTION

H.R. 4593 was introduced by Congressman Jim Gibbons (R-NV) on June 16, 2004. The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks, Recreation and Public Lands. On July 20, 2004, the Subcommittee held a hearing on the bill. On September 22, 2004, the Full Resource Committee met to consider the bill. By unanimous consent, the Subcommittee on National Parks, Recreation and Public Lands was discharged from further consideration of the bill. Chairman Pombo offered an amendment in the nature of a substitute. The Pombo amendment made a series of technical changes to the bill, and in addition made two substantive changes of note. First, the amendment removed three areas from the wilderness title of the bill. These three areas are depicted in the bill as Mount Irish, Big Rocks and a segment of the Mormon Mountains known loosely as the East Mormons. All three areas were removed due to the lack of strong suitability criteria coupled with a lack of opportunity of public comment and input on their proposed designation. It is the Committee's understanding that the Nevada delegation will pursue public hearings on these areas to address local concerns with their designation prior to floor action on the bill. The second substantive change made by the amendment was to require that rights-of-way issued under the utility corridor title of the bill must first undergo the full analysis required under the National Environmental Policy Act. In addition, under the same title, the amendment gives the Secretary greater flexibility to determine the final placement of the proposed utility corridor. The amendment was agreed to by voice vote. No further amendments were offered. The bill was then ordered favorably reported to the House of Representatives by voice vote.

#### 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 Resources' oversight findings and recommendations are reflected in the body of this report.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact this bill.

#### COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) 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 this bill. However, clause 3(d)(3)(B) 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 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of this bill would increase both offsetting receipts and direct spending, but it concluded that “the net impact on direct spending would be negligible in each year.”

3. 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 establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII 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 this bill from the Director of the Congressional Budget Office:

*H.R. 4593—Lincoln County Conservation, Recreation, and Development act of 2004*

CBO estimates that implementing H.R. 4593 would cost \$1 million annually starting in 2005, assuming the availability of appropriated funds. The bill would increase both offsetting receipts and direct spending, but we estimate that the net impact on direct spending would be negligible in each year. Enacting H.R. 4593 would not affect revenues.

H.R. 4593 would make several changes to programs to manage federal land in Nevada. The bill would authorize the Secretary of the Interior to sell about 100,000 acres of land in Lincoln County and spend the proceeds, without further appropriation, for resource management and administrative expenses. H.R. 4593 would designate roughly 720,000 acres of land as wilderness and release about 245,000 acres of other land from wilderness study status. The bill would direct the Secretary to grant certain rights-of-way for utilities, designate a 260-mile trail for off-highway vehicles, and authorize the Secretary to convey certain federal properties to Nevada and Lincoln County for use as parks. Finally, under H.R. 4593, the Bureau of Land Management (BLM) and U.S. Fish and Wildlife Service would exchange jurisdiction over two parcels of federal land.

Based on information from BLM, CBO estimates that the proposed program to sell federal land in Lincoln County would increase offsetting receipts (a credit against direct spending) by a total \$9 million over the 2005–2014 period. Because we expect those receipts would be largely spent in the year they are collected, we estimate that the new program would have no significant net impact on direct spending in any year. We also estimate that the various changes in land use proposed under H.R. 4593 would increase federal spending for land management by \$1 million annu-

ally starting in 2005, assuming the availability of appropriated funds.

H.R. 4593 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. Enacting this bill would benefit the state of Nevada and Lincoln County because they would receive a portion of the proceeds from the sale of federal land. They also would receive federal land at very little cost.

The CBO staff contacts for this estimate are Megan Carroll (for federal costs) and Marjorie Miller (for the state and local impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

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 change in existing law.

