

Public Law 100-275
100th Congress

An Act

Mar. 31, 1988

[S. 854]

Nevada-Florida
Land Exchange
Authorization
Act of 1988.
Public lands.
Contracts.

Entitled the "Nevada-Florida Land Exchange Authorization Act of 1988".

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 "Nevada-Florida Land Exchange Authorization Act of 1988".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "land" means lands and interests (including the reserved mineral estate) therein, including leaseholds.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Aerojet" means the Aerojet-General Corporation, an Ohio corporation.

(4) The term "exchange agreement" means an agreement between the Secretary and Aerojet which is entered into for purposes of making the exchange authorized by this Act and which meets the requirements of this Act.

(5) The term "lease agreement" means an agreement between the Secretary and Aerojet which is entered into for the purpose of making the lease authorized and directed by this Act and which meets the requirements of this Act.

(6) The term "endangered or threatened species" means an endangered species or a threatened species, as defined in the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 3. EXCHANGE.

(a) AUTHORIZATION.—Subject to valid existing rights, the Secretary is authorized and directed to convey and lease public lands in the State of Nevada, described in subsection (b)(1), in exchange for the conveyance to the United States of the lands in Dade County, Florida, described in subsection (b)(2).

(b) LANDS TO BE EXCHANGED.—

(1) NEVADA.—(A) Public lands to be conveyed by the Secretary pursuant to this Act are the public lands, comprised of approximately twenty-eight thousand eight hundred acres, described as "For Conveyance to Aerojet General Corporation" on the map entitled "Public Domain Lands to be Exchanged and Leased to Aerojet-General Corporation, Clark and Lincoln Counties, Nevada," dated October 1987, and the public lands, comprised of approximately ten thousand and forty acres, generally depicted on the map entitled "Public Domain Lands to be Exchanged to Aerojet-General Corporation, Mineral County, Nevada," dated February 1987.

(B) In furtherance of an exchange pursuant to this Act, the Secretary shall also lease to Aerojet the lands described in section 4.

(2) FLORIDA.—The private lands to be acquired by the Secretary pursuant to this Act are all right, title, and interest of Aerojet (exclusive of severable use rights) in and to approximately four thousand six hundred and fifty acres of land as generally depicted on the map entitled "Aerojet-General Corporation Lands to be Exchanged to United States Fish and Wildlife Service, Dade County, Florida," dated February 1987, and available for inspection in the Office of the Secretary.

Public
information.

(c) CONVEYANCE DOCUMENTS.—

(1) BEFORE SURVEY.—Lands to be conveyed by the United States pursuant to this Act which have not been surveyed, or with respect to which any boundary needs to be surveyed, shall be conveyed by an interim conveyance. An interim conveyance under this paragraph shall convey to and vest in the recipient the same right, title, and interest in and to such lands as the recipient would have received in a patent issued pursuant to this Act.

Patents and
trademarks.

(2) PATENT.—Upon being surveyed, the Secretary shall issue a patent for such lands. The boundary of such lands shall be that which was defined in and conveyed by the interim conveyance, except that the boundary may be corrected and redescribed in the patent, where necessary, as a result of the survey of such lands.

(3) FINALITY.—The issuance of an interim conveyance or patent pursuant to this section shall be subject to valid existing rights and shall be final and irrevocable. The United States shall not be required to accept a reconveyance or to take any actions with regard to the lands covered by such interim conveyance or patent.

(4) DISCREPANCIES.—The acreages cited in this Act are approximate, and in the event of discrepancies between cited acreages and the maps referred to in this section, the maps shall control.

(d) TERMS AND CONDITIONS.—The Secretary shall include in any interim conveyance, patent, or lease subject to this Act all terms and conditions required by this Act. Such terms and conditions shall apply to all subsequent purchasers, transferees, and other holders of any land covered by any such interim conveyance, patent, or lease.

(e) LEGAL DESCRIPTION.—Within six months after the completion of an exchange pursuant to this Act, the Secretary shall file maps and legal descriptions of the lands so exchanged (including lands conveyed and leased by the United States) with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. Such legal descriptions shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal descriptions and in the maps referred to in subsection (a). Such legal descriptions and maps shall also be on file and available for public inspection in the Nevada office of the State Director of the Bureau of Land Management, Department of the Interior. For purposes of this subsection, the issuance of a conveyance document (either a patent or an interim conveyance) or lease, whichever is later, shall constitute completion of an exchange.

Public
information.

Patents and
trademarks.

SEC. 4. LEASE OF CERTAIN LANDS IN NEVADA.

(a) LEASE.—

Minerals and
mining.

(1) **GENERAL AUTHORITY.**—The Secretary is authorized and directed to lease to Aerojet the approximately fourteen thousand acres of public lands described as “for Lease to Aerojet” on the map entitled “Public Lands to be Exchanged and Leased to Aerojet-General Corporation, Clark and Lincoln Counties, Nevada,” dated October 1987. Any such lease shall be subject to subsection (b) and to the terms and conditions specified in section 5.

(2) **WITHDRAWAL.**—Subject to valid existing rights, the lands described in paragraph (1) are withdrawn from all forms of entry and appropriation under the public land laws (including the mining laws) and from the operation of the mineral leasing and geothermal leasing laws. The withdrawal of such lands shall remain in effect so long as such lands are leased under authority of this Act.

(b) **REQUIREMENTS RELATING TO LEASE.**—

(1) **TERM.**—Any lease issued pursuant to subsection (a) shall be for an initial term of ninety-nine years, during which time no rental shall be required to be paid to the United States. Lands leased pursuant to subsection (a) shall not be deemed to be entitlement lands for purposes of Public Law 94-565 (31 U.S.C. 1601 et seq.).

Fish and fishing.
Plants.
Wildlife.

(2) **USE OF LEASED LANDS.**—During the term of any lease issued pursuant to subsection (a), the lessee shall be entitled to use the lands which are subject to such lease only for purposes of constructing and using necessary roads, utility lines, storage facilities, and wells. The lessee also shall be entitled to use such lands for such other related purposes as the Secretary may from time to time permit, subject to the requirements of this Act and other applicable law and to reasonable requirements the Secretary, acting through the Director of the Fish and Wildlife Service, may establish for the protection of fish, wildlife, or plants. The lease shall provide that the lessee shall consult with the Secretary concerning the location of any roads, utility lines, facilities, and wells on the leased lands, and that with regard to any such location, the lessee, so far as possible, shall follow recommendations of the Secretary intended to minimize adverse impacts on the desert tortoise and other species of wildlife or plants.

(3) **FISH, WILDLIFE, AND PLANTS.**—Any lease issued pursuant to subsection (a) shall require the lessee to take all reasonable steps the Secretary, acting through the Director of the Fish and Wildlife Service, may from time to time require to minimize adverse impacts on desert tortoises and any other species of fish, wildlife, and plants (including, but not limited to, endangered or threatened species) from the lessee’s activities occurring on such lands.

(4) **ASSIGNABILITY.**—A lease issued pursuant to this section may be assigned or transferred by Aerojet only with the consent of the Secretary, which shall not be unreasonably withheld.

SEC. 5. CONDITIONS OF EXCHANGE.

(a) **VALUE.**—

(1) **EQUALIZATION OF VALUE.**—Any exchange of lands pursuant to this Act shall be on the basis of equal value as determined by the Secretary, except that the Secretary may accept a payment of money in order to equalize values between lands transferred,

or leased, to Aerojet by the Secretary and lands transferred to the United States by Aerojet. The Secretary shall require that any conveyance of a production well drilled at Federal expense which Aerojet or its successors or assigns subsequently uses for withdrawal of water for industrial purposes shall be in consideration of receipt by the United States of land or money equal in value to the cost of drilling a well suitable for industrial purposes and located at the same site as the well conveyed.

Water.
Business and
industry.

(2) APPRAISAL.—Any determination by the Secretary of values of lands to be conveyed or leased by the Secretary pursuant to this Act shall be based on the fair market value of such lands, as determined by appraisals carried out in accordance with established procedures used by the Bureau of Land Management and done after the date of enactment of this Act by qualified appraisers selected and reimbursed by the Secretary. The values of lands to be conveyed by Aerojet pursuant to this Act shall be the values agreed to pursuant to section 7(a).

(3) NOTICE AND PUBLIC INSPECTION.—Upon completion of such appraisals, the Secretary shall—

(A) publish in newspapers of general circulation in Clark, Lincoln, and Mineral Counties, Nevada, a notice as to where and when the results of appraisals carried out pursuant to this Act will be available for public inspection, and

(B) transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a copy of such appraisals and the determination by the Secretary of the values of lands to be conveyed and leased.

The Secretary shall not issue any interim conveyance, patent, or lease pursuant to this Act before ten days after such transmittals are made to the committees specified in subparagraph (B).

(b) TRANSMISSION CORRIDOR.—

(1) RESERVATION TO THE UNITED STATES.—The transfer of the lands in Clark and Lincoln Counties, Nevada to be conveyed to Aerojet under this Act shall be subject to the reservation to the United States of the right-of-way corridor described in the draft exchange agreement referred to in subsection (g). This corridor shall be designated and administered by the Secretary, who may grant rights-of-way over, upon, under, and through the corridor for systems and facilities used or useful for the construction, operation, and maintenance of electric transmission lines consistent with title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.).

Energy.

(2) ACTIVITIES IN TRANSMISSION CORRIDOR.—Activities to construct, operate, and maintain electric transmission lines within the corridor shall be given priority over all conflicting activities. The Secretary shall take all reasonable actions to facilitate and protect the activities planned and proposed for the land in Clark County and Lincoln County, Nevada, referred to in section 3(b), by Aerojet-General Corporation relating to the development, manufacture, and testing of rocket motors or other aerospace and defense products, including the granting of rights-of-way to Aerojet-General Corporation for roads across the corridor connecting the eastern and western portions of the land in Clark County and Lincoln County, Nevada, referred to in section 3(b).

Defense and
national
security.

(3) **ALTERNATIVE TO CORRIDOR ON CERTAIN LANDS.**—If, after five years from the date of enactment of this Act, other public lands within the six-mile width of land immediately west of the Clark County and Lincoln County, Nevada, land referred to in section 3(b) are returned to multiple use, are suitable as an alternative to the corridor reserved in this subsection, and are made available for the construction, operation, and maintenance of electric transmission lines, no further rights-of-way or other rights or privileges to construct, operate, and maintain electric transmission lines within the corridor reserved in this subsection shall be granted by the Secretary unless—

(A) such rights-of-way or other rights or privileges are pursuant to or in furtherance or continuation of the specific rights referred to in subsection (c);

(B) at the time the land becomes so available there is pending an application for a right-of-way in the corridor reserved in this subsection and in the opinion of the Secretary such application is being diligently pursued; or

(C) such rights-of-way or other rights or privileges are in renewal of a right-of-way granted prior to the land becoming so available.

Energy.
Utah.

(c) **PRESERVATION OF EXISTING RIGHTS.**—The existing rights referred to in section 3(a) include the right-of-way (Number U-42519, granted April 3, 1980) to construct, operate, and maintain an electric transmission line from the Intermountain Power Project at Delta, Utah, through the land in Clark County and Lincoln County, Nevada, referred to in section 3(b), and the interest of the White Pine Power Project in the Southern Transmission System (described and analyzed in the final Environmental Impact Statement as the selected alternative and displayed on the map attached to the Record of Decision approved on March 26, 1985), within the land in Clark County and Lincoln County, Nevada, referred to in section 3(b). Nothing in this Act or in the draft exchange agreement referred to in subsection (g) shall negate or diminish such existing rights in any respect, except that (unless otherwise agreed to by the owner of the land in Clark County and Lincoln County, Nevada, referred to in section 3(b)) on and after the consummation of the exchange of lands authorized by this Act and without further act by the holders of such existing rights, such existing rights shall be altered so that—

(1) all transmission lines and related facilities to be located on the land in Clark County and Lincoln County, Nevada, referred to in section 3(b) pursuant to such existing rights may only be located within the corridor referenced in subsection (b); and

(2) the right to locate such transmission lines and related facilities pursuant to such existing rights on the land in Clark County and Lincoln County, Nevada, referred to in section 3(b) outside of that corridor shall be extinguished and of no further force or effect.

Safety.

(d) **OFF-ROAD VEHICLES AND ALL-TERRAIN VEHICLES.**—Except for purposes of administration or in cases of emergency or for public safety, off-road vehicles and all-terrain vehicles may not be used on unroaded portions of land located in the State of Nevada which is conveyed or leased under this Act.

Claims.

(e) **IMMUNITY.**—Notwithstanding any other provision of law, the United States, its officers, employees, and instrumentalities, may not be held liable for, and shall be immune from, any claim arising

from any acts or omissions of Aerojet, its employees, agents, successors, or assigns, on or related to any land conveyed or leased pursuant to this Act.

(f) **OTHER REQUIREMENTS.**—Any exchange pursuant to this Act (including any conveyance and any lease) shall be performed in accordance with and subject to the terms of this Act, the exchange agreement, and the lease agreement.

(g) **AGREEMENTS.**—

(1) **IN GENERAL.**—The issuance of any interim conveyance, patent, or lease in furtherance of an exchange under this Act shall be governed by and be in accordance with a written exchange agreement and lease agreement between the Secretary and Aerojet which shall incorporate the relevant terms and conditions of this Act. Such agreements shall incorporate all provisions of the draft exchange agreement and draft lease agreement, respectively, dated October 1, 1987, printed as Appendices to the Report of the Committee on Energy and Natural Resources to accompany S. 854 (S. Rept. 100-292), which are not inconsistent with this Act.

Patents and
trademarks.

(2) **LIMITATIONS.**—The Secretary shall not agree to the inclusion in the exchange agreement of any terms or conditions which, after completion of the exchange authorized and directed by this Act, would limit the ability of the Secretary to properly manage lands in Nevada or Florida for which the Secretary will have responsibility, or which, after completion of such exchange, would prevent the Secretary from properly discharging the responsibilities of the Secretary under any then-applicable provision of law. Nothing in the exchange agreement shall afford Aerojet or any other party a preferential position with regard to purchase or lease of any public lands other than those described in this Act.

(3) **RULE OF CONSTRUCTION; NOTIFICATION.**—In the case of any inconsistency between the terms of the exchange agreement or the lease agreement or any amendments thereto and this Act, the provisions of this Act shall prevail. The Secretary shall not agree to any amendment to either the exchange agreement or the lease agreement without first consulting with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and shall transmit copies of any such amendment to such committees at the time of agreeing to such amendment.

SEC. 6. HABITAT PROTECTION.

(a) **GROUND WATER.**—

(1) **MONITORING OF CONDITIONS AND HABITAT.**—The Secretary, acting through the Director of the Fish and Wildlife Service, shall monitor the conditions and habitat of endangered or threatened species whose habitat the Secretary believes could be affected by the withdrawal of ground water from the aquifer beneath lands conveyed or leased pursuant to this Act.

(2) **POTENTIAL ADVERSE EFFECTS.**—If the Secretary has reasonable evidence to believe that the withdrawal of ground water from the aquifer beneath lands conveyed and leased pursuant to this Act is likely to adversely affect the habitat of any endangered or threatened species, the Secretary shall—

(A) promptly notify Aerojet (or its successors or assigns in the event that Aerojet has transferred its interests in such lands), the Committee on Energy and Natural Resources of the Senate, the Committee on Interior and Insular Affairs of the House of Representatives, and the State Engineer of Nevada concerning such likely adverse effect of such withdrawal; and

(B) request the State Engineer to take appropriate action, in accordance with applicable laws of the State of Nevada, to ascertain whether the withdrawal of ground water from such aquifer is in fact reducing the supply of water to the habitat of any endangered or threatened species, and, if so, to mitigate that reduction in accordance with applicable laws of the State of Nevada.

(3) DEPLETION.—In the event that the State Engineer of Nevada determines that the withdrawal of ground water from beneath lands conveyed or leased pursuant to this Act or from beneath other lands underlain by the same aquifer is causing depletion of water to a surface water habitat of any endangered or threatened species, Aerojet (or its successors or assigns) and the Secretary shall jointly petition the State Engineer to reduce the total water allocation in the affected area, or to take any other actions authorized by State law, in order to eliminate such depletion of water to such habitat.

(b) ALTERNATIVE SOURCES OF WATER.—The Secretary may not convey or lease lands under this Act until the Secretary has been assured by the State Engineer of Nevada that Aerojet has developed a feasible plan, consistent with applicable laws of the State of Nevada, for obtaining an alternative source of water (other than the withdrawal of ground water from the aquifer beneath lands conveyed and leased under this Act) to be used, in total or in part, in the event that Aerojet or a successor in interest is required to cease pumping ground water from beneath the conveyed or leased lands.

(c) ACCESS FOR MONITORING.—The Secretary, acting through the Director of the Fish and Wildlife Service, shall have access at any time to any land conveyed or leased under this Act to monitor—

Water.

(1) the pumping of ground water from such land,

(2) the condition of endangered or threatened species located on such land,

Plants.

(3) the impact of any activity occurring on such land on wildlife and plants, including (but not limited to) endangered or threatened species.

Wildlife.

In exercising such right of access, the Secretary shall afford reasonable notice to Aerojet (or its successors or assigns).

(d) POLLUTION CONTROLS.—Nothing in this Act shall be construed as limiting or impairing the power of any Federal or State agency to monitor and regulate the handling by Aerojet or its successors in interest of hazardous materials or wastes or air or water pollutants to assure compliance with applicable State and Federal laws. The Secretary, from time to time, shall consult and cooperate with the Administrator of the Environmental Protection Agency and appropriate officials of the State of Nevada to facilitate such monitoring and regulation.

SEC. 7. TRANSFER OF FLORIDA LANDS TO WATER MANAGEMENT DISTRICT.

(a) **SALE TO SOUTH FLORIDA WATER MANAGEMENT DISTRICT.**—Notwithstanding any other provision of law, the Secretary is authorized and directed to sell by issuance of a quitclaim deed any lands acquired in accordance with an exchange pursuant to this Act to the South Florida Water Management District at such per-acre price as may be mutually agreed upon by the Secretary and the District.

(b) **USE OF FUNDS RECEIVED BY THE UNITED STATES.**—Notwithstanding any other provision of law, any funds received by the United States from the sale of lands authorized by subsection (a) and from any payments by Aerojet to equalize values of lands exchanged pursuant to this Act shall be deposited in the "Contributed Fund Account" of the Fish and Wildlife Service, and shall be utilized for the purchase of additional lands at existing elements of the National Wildlife Refuge System in the State of Florida. Such funds shall be available for obligation without appropriation.

National
Wildlife Refuge
System.

(c) **NOTICE TO CONGRESS.**—The Secretary shall notify the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives of any proposal to obligate funds received in accordance with the provisions of subsection (a) at least sixty days prior to the obligation of such funds.

SEC. 8. WILDERNESS STUDY AREAS.

Any public land in the State of Nevada which, as of March 1, 1987, was managed pursuant to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) shall be retained in Federal ownership and shall continue to be so managed until Congress determines otherwise.

Congress.

SEC. 9. CLAIMS.

Nothing in this Act or in the exchange and lease agreements shall be construed as affirming or denying the validity of any claim which is pending on the date of enactment of this Act by any Indian tribe or any other person with respect to any lands in Nevada.

SEC. 10. JUDICIAL REVIEW.

(a) **GENERAL PROVISIONS.**—Except as provided in subsection (b), nothing in this Act shall be construed as limiting any right of the Secretary or any other person to bring any action with regard to the responsibilities of the Secretary or any other person under applicable law, as affected or modified by this Act. The Secretary shall not include in the exchange agreement any term or condition that would limit the ability of the Secretary to bring any action or take any other step the Secretary may find appropriate in order to carry out the responsibility of the Secretary under this Act or any other applicable provision of law, as affected or modified by this Act.

(b) **FINDING AND LIMITATION.**—The Congress hereby finds that studies and analyses completed prior to the date of enactment of this Act have made available information sufficient to meet the objectives of the National Environmental Policy Act of 1969 and other relevant law so far as concerns the possible environmental and other effects of the conveyance and lease of public lands in Nevada as provided for in this Act, and that the provisions of this Act adequately address such possible effects.

Environmental
protection.

Congress.
Patents and
trademarks.

(c) **LIMITATION.**—Based on the finding set forth in subsection (b), the Congress directs that the execution or consummation of any agreement, or the issuance of an interim conveyance, patent, or lease, pursuant to and in accordance with the provisions of this Act, shall not be subject to judicial review with respect to any complaint alleging a failure by the Secretary or any other person to comply with any provision of law other than the provisions of this Act.

SEC. 11. DEADLINE.

It is the sense of Congress that the Secretary shall execute the exchange agreement and the lease agreement and shall implement the conveyance and lease of lands pursuant to this Act no later than one hundred and twenty days after the date of enactment of this Act.

16 USC 670g
note.

SEC. 12. DESERT TORTOISE PLAN.

(a) **PREPARATION.**—The Secretary shall—

(1) review the status of populations of desert tortoises on lands in Nevada and other States managed by the Secretary, other than lands conveyed or leased pursuant to this Act;

(2) assess the nature and extent of threats to the continued health or stability of such populations on such lands; and
(3) prepare a comprehensive plan to address such threats through—

(A) reductions in the extent to which uses of such lands which are potentially harmful to such populations are permitted to occur; and

(B) other measures to remove or mitigate such threats.

State and local
governments.

(b) **CONSULTATION.**—In preparing the plan required by subsection (a), the Secretary shall consult with State officials, other Federal agencies responsible for management of lands where desert tortoise populations are located, the Desert Tortoise Council, and other persons or groups identified by the Secretary as having expertise relevant to the requirements of this section.

(c) **DEADLINES AND REPORTS.**—

Public
information.

(1) **REVIEW AND ASSESSMENT.**—The review and assessment required by paragraphs (1) and (2) of subsection (a) shall be completed and the results thereof shall be made available to the public and transmitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives no later than two years after the date of enactment of this Act.

(2) **PLAN.**—The plan required by subsection (a)(3) shall be developed and transmitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior

and Insular Affairs of the House of Representatives no later than three years after the date of enactment of this Act. A failure by the Secretary to transmit such report within such three-year period shall not relieve the Secretary from the requirement to prepare such plan.

Approved March 31, 1988.

LEGISLATIVE HISTORY—S. 854 (H.R. 1845):

HOUSE REPORTS: No. 100-513, Pt. 1 accompanying H.R. 1845 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: No. 100-292 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Mar. 4, considered and passed Senate.

Mar. 15, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Mar. 31, Presidential statement.