

106TH CONGRESS
1ST SESSION

S. 1857

To provide for a conveyance of certain Navajo Nation lands located in northwestern New Mexico and to resolve conflicts among the members of such Nation who hold interests in allotments on such lands.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 4, 1999

Mr. DOMENICI introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To provide for a conveyance of certain Navajo Nation lands located in northwestern New Mexico and to resolve conflicts among the members of such Nation who hold interests in allotments on such lands.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bisti PRLA Dispute
5 Resolution Act”.

6 **SEC. 2. PURPOSES.**

7 It is the purpose of this Act to—

1 (1) resolve a conflict among the Navajo Nation,
2 the Bureau of Land Management and a coal pref-
3 erence right lease applicant that is preventing the
4 conveyance of certain public land selected by the
5 Navajo Nation in 1981 in northwestern New Mexico
6 under section 11 of Public Law 93–531 (25 U.S.C.
7 640d–10);

8 (2) permit the Navajo Nation to use the se-
9 lected lands described in paragraph (1) in the man-
10 ner provided for in subsection (h) of such section 11
11 (25 U.S.C. 640d–10(h)), either as the site of reloca-
12 tion of Navajo families residing on Hopi-partitioned
13 lands in Arizona, or as the site of commercial use
14 and development to generate revenue for the benefit
15 of those relocatees;

16 (3) resolve a conflict among members of the
17 Navajo Nation who hold interests in allotments on
18 such lands, the Bureau of Land Management and a
19 coal preference right lease applicant that was the
20 subject of litigation in the United States District
21 Court for the District of New Mexico in *Mescal. et*
22 *al. v. United States et al.* (Civil No. 83–1408 LH/
23 WWH), consistent with the provisions of the settle-
24 ment agreement of October 1, 1996 among the par-
25 ties by which the case was resolved;

1 (4) resolve conflicts over the management of
 2 public lands that have evaded resolution since short-
 3 ly after coal prospecting permits were first issued in
 4 1967; and

5 (5) resolve such conflicts in a manner that—

6 (A) does not violate a coal lease applicant’s
 7 valid existing rights as protected by section 2(b)
 8 of the Act of February 25, 1920 (commonly
 9 known as the Mineral Leasing Act (30 U.S.C.
 10 201(b))) and related laws; and

11 (B) recognizes the reasonable value of such
 12 rights as established by discounted cash flow
 13 appraisal methods during the adjudication of
 14 the coal preference right lease applications.

15 **SEC. 3. EXCHANGE AUTHORIZATION AND DIRECTION.**

16 (a) IN GENERAL.—Notwithstanding any other provi-
 17 sion of law, the Secretary of the Interior, acting through
 18 the Bureau of Land Management, shall, upon the relin-
 19 quishment by the holder or holders thereof of coal pref-
 20 erence right lease applications captioned NMNM 3752,
 21 NMNM 3753, NMNM 3754, NMNM 3755, NMNM 3835,
 22 NMNM 3837, NMNM 3918, NMNM 3919, NMNM 6802,
 23 NMNM 7235 and NMNM 8745, issue to each such holder
 24 or holders a Certificate of Bidding Rights (in such form
 25 and manner as provided for under regulations promul-

gated by the Secretary under the coal leasing provisions of the Act of February 25, 1920 (commonly known as the Mineral Leasing Act (30 U.S.C. 181 et seq.)) that constitutes the fair market value, as determined under section 4, of the relinquished coal preference right lease application involved. Such relinquishment shall be effective upon issuance of the Certificate of Bidding Rights.

(b) NO ADJUDICATION.—The relinquishments and issuances required under subsection (a) shall occur without any further adjudication of the coal preference right lease applications by the Secretary of the Interior.

SEC. 4. METHOD FOR DETERMINING FAIR MARKET VALUE.

(a) IN GENERAL.—Notwithstanding any other provision of law, the provisions of this section shall apply to the issuance of a Certificate of Bidding Rights under section 3.

(b) ISSUANCE.—Not later than 90 days after the date on which fair market value is determined under subsection (c) with respect to a preference right lease application to which this section applies, the Secretary of the Interior shall issue a Certificate of Bidding Rights for such application and notify Congress of such action.

(c) FAIR MARKET VALUE.—

(1) IN GENERAL.—The fair market value of a preference right lease application to which this sec-

tion applies shall be determined by the Secretary of the Interior based on the recommendations of a panel appointed under paragraph (2).

(2) PANEL.—A panel under this paragraph shall be composed of 4 representatives—

(A) one representative to be appointed by the Secretary of the Interior;

(B) one representative to be appointed by the holder of the preference right lease application involved;

(C) one representative to be appointed by the chief executive officer of Wyoming; and

(D) one representative to be appointed by the chief executive officer of New Mexico.

(3) EVIDENCE.—Evidence of the fair market value of a preference right lease application that may be considered by a panel under this subsection shall be evidence of the same nature as the evidence that is considered by the Bureau of Land Management in determining whether a holder of a preference right lease application has met the legal test established in regulations promulgated by the Secretary of the Interior for determining whether the holder has made a valuable discovery of coal in commercial quantities.

1 (4) SUPPLEMENTAL INFORMATION.—In deter-
2 mining the fair market value of a coal reserve for
3 purposes of paragraph (3), the panel may supple-
4 ment information derived under such paragraph with
5 testimony from witnesses or by affidavit, as the
6 panel determines appropriate.

7 **SEC. 5. ISSUANCE OF PATENTS TO RELINQUISHED PREF-**
8 **ERENCE RIGHT LEASE APPLICATIONS.**

9 (a) IN GENERAL.—Notwithstanding any other provi-
10 sion of law, the Secretary of the Interior, acting through
11 the Bureau of Land Management, shall—

12 (1) not later than July 15, 2000, verify the se-
13 lections of lands made by the Navajo Nation pursu-
14 ant to section 11 of Public Law 93–531 (25 U.S.C.
15 640d–10); and

16 (2) not later than 30 days after the relinquis-
17 ment and issuance of bidding rights under section 3,
18 issue patents to the Navajo Nation as provided for
19 by law.

20 (b) ENFORCEMENT.—The duties imposed on the Sec-
21 retary of the Interior under this section shall be considered
22 nondiscretionary and enforceable in a mandamus pro-
23 ceeding brought under section 1361 of title 28, United
24 States Code.

1 **SEC. 6. USE OF EXCHANGE BIDDING RIGHTS.**

2 (a) IN GENERAL.—Notwithstanding any other provi-
3 sion of law—

4 (1) a Certificate of Bidding Rights issued by
5 the Secretary of the Interior under section 3 shall,
6 subject to such procedures as the Secretary may es-
7 tablish pertaining to notice of transfer and account-
8 ings of holders and their balances, be transferable by
9 the holder or holders thereof in whole or in part;

10 (2) a Certificate of Bidding Rights issued by
11 the Secretary of the Interior under section 3 shall
12 constitute a monetary credit that, subject to para-
13 graph (3), may be applied, at the election of the
14 holder or holders thereof, against rentals, advance
15 royalties, or production royalties payable to the Sec-
16 retary under Federal coal leases, as well as against
17 bonus payments payable to the Secretary in the
18 issuance of a Federal coal lease or Federal coal lease
19 modification under the coal leasing provisions of the
20 Act of February 25, 1920 (commonly known as the
21 Mineral Leasing Act (30 U.S.C. 181 et seq.)); and

22 (3) whenever any Certificate of Bidding Rights
23 issued by the Secretary of the Interior under section
24 3 is applied by the holder or holders thereof as a
25 monetary credit against a payment obligation under
26 a Federal coal lease, the holder or holders may apply

1 such bidding rights only against 50 percent of the
2 amount payable under such lease, and shall pay the
3 remaining 50 percent as provided for under the lease
4 in cash or its equivalent.

5 (b) PAYMENT UNDER LEASE OBLIGATIONS.—Any
6 payment of a Federal coal lease obligation by the holder
7 or holders of a Certificate of Bidding Rights issued by the
8 Secretary of the Interior under section 3 shall be treated
9 as money received under section 35 of the Act of February
10 25, 1920 (commonly known as the Mineral Leasing Act
11 (30 U.S.C. 191)), but shall only be credited and redistrib-
12 uted by the Secretary as follows:

13 (1) Fifty percent of the amount paid in cash or
14 its equivalent shall be fully redistributed to the State
15 in which the lease is located and be treated as a 50
16 percent redistribution under such section 35.

17 (2) Fifty percent of the amount paid through a
18 crediting of the bidding rights involved shall be
19 treated as a payment that is subject to redistribu-
20 tion under such section 35 to the Reclamation and
21 Miscellaneous Receipts accounts in the Treasury.

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