

108TH CONGRESS
2D SESSION

S. 2790

To provide for the conveyance of certain public land in northwestern New Mexico by resolving a dispute associated with coal preference right lease interests on the land.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 10, 2004

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

A BILL

To provide for the conveyance of certain public land in northwestern New Mexico by resolving a dispute associated with coal preference right lease interests on the land.

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. WITHDRAWAL OF COAL PREFERENCE RIGHT LEASE**
7 **APPLICATIONS.**

8 (a) IN GENERAL.—Notwithstanding any other provi-
9 sion of law, if any of the coal preference right lease appli-

1 cations captioned NMNM 3752, NMNM 3753, NMNM
2 3754, NMNM 3755, NMNM 3835, NMNM 3837, NMNM
3 3918, NMNM 3919, NMNM 6802, NMNM 7235 and
4 NMNM 8745 are withdrawn by the holder or holders of
5 the applications, the Secretary of the Interior, acting
6 through the Bureau of Land Management (referred to in
7 this Act as the “Secretary”), shall issue under section
8 4(a)(2) to each such holder or holders a certificate of bid-
9 ding rights (in such form and manner as provided for
10 under regulations promulgated by the Secretary under the
11 Mineral Leasing Act (30 U.S.C. 181 et seq.)) that con-
12 stitutes the combined fair market value, as determined
13 under section 3, of the coal reserves for each coal pref-
14 erence right lease application withdrawn by the holder.

15 (b) RELINQUISHMENT.—The relinquishment of all
16 rights associated with the coal preference lease applica-
17 tions withdrawn shall be effective on the date of the
18 issuance of the certificate of bidding rights under section
19 4(a)(2).

20 (c) NO ADJUDICATION.—The withdrawals and
21 issuances required under subsection (a) shall occur with-
22 out any further adjudication of coal preference right lease
23 applications by the Secretary.

1 **SEC. 3. METHOD FOR DETERMINING FAIR MARKET VALUE.**

2 (a) IN GENERAL.—Notwithstanding any other provi-
3 sion of law, this section shall apply to the issuance of a
4 certificate of bidding rights under section 4(a)(2).

5 (b) VALUE OF COAL RESERVES.—

6 (1) IN GENERAL.—The fair market value of the
7 coal reserves of any coal preference right lease appli-
8 cation withdrawn under section 2(a) shall be deter-
9 mined by the panel established under paragraph (2).

10 (2) PANEL.—

11 (A) ESTABLISHMENT.—Not later than 30
12 days after the date of enactment of this Act,
13 the Secretary shall establish a panel to deter-
14 mine the fair market value of the coal reserves
15 of any coal preference right lease applications
16 withdrawn under section 2(a).

17 (B) MEMBERSHIP.—The panel shall be
18 composed of 3 representatives, of whom—

19 (i) 1 representative shall be appointed
20 by the Secretary;

21 (ii) 1 representative shall be appointed
22 by the holder of the preference right lease
23 application; and

24 (iii) 1 representative shall be ap-
25 pointed by the Governor of the State of
26 New Mexico.

1 (3) MINERAL APPRAISER.—The Secretary shall
 2 contract with a qualified coal reserve appraiser to
 3 assist the panel established under paragraph (2)(A)
 4 in determining the fair market value of a coal re-
 5 serve.

6 (4) SUPPLEMENTAL INFORMATION.—In deter-
 7 mining the fair market value of a coal reserve, the
 8 panel may supplement any information provided to
 9 the panel, as the panel determines to be appropriate.

10 (5) DETERMINATION.—Not later than 75 days
 11 after the date on which the panel is established
 12 under paragraph (2)(A), the panel shall submit to
 13 the Secretary the determination of the panel with re-
 14 spect to the fair market value of a coal reserve of
 15 any coal preference right lease application with-
 16 drawn by the holder.

17 **SEC. 4. ISSUANCE OF PATENTS TO RELINQUISHED PREF-**
 18 **ERENCE RIGHT LEASE APPLICATIONS.**

19 (a) IN GENERAL.—Notwithstanding any other provi-
 20 sion of law, not later than 120 days after the withdrawal
 21 of a coal preference right lease application, the Secretary
 22 shall—

23 (1) issue to the Navajo Nation patents to the
 24 land, including the mineral estate, subject to the
 25 coal preference right lease application withdrawn—

1 (A) in full and final satisfaction of the
 2 right of the Navajo Nation to select land in
 3 New Mexico under section 11 of the Navajo–
 4 Hopi Land Settlement Act of 1974 (25 U.S.C.
 5 640d–10); and

6 (B) to facilitate land consolidation and fa-
 7 cilitate mineral development in northwest New
 8 Mexico; and

9 (2) issue a certificate of bidding rights in the
 10 amount of the fair market value determined under
 11 section 3.

12 (b) ENFORCEMENT.—The duties of the Secretary
 13 under this section shall be considered nondiscretionary
 14 and enforceable in a mandamus proceeding brought under
 15 section 1361 of title 28, United States Code.

16 **SEC. 5. USE OF EXCHANGE BIDDING RIGHTS.**

17 (a) IN GENERAL.—Notwithstanding any other provi-
 18 sion of law—

19 (1) a certificate of bidding rights issued under
 20 section 4(a)(2) shall—

21 (A) be subject to such procedures as the
 22 Secretary may establish pertaining to notice of
 23 transfer and accountings of holders and their
 24 balances;

1 (B) be transferable by the holder or hold-
2 ers of the certificate of bidding rights in whole
3 or in part; and

4 (C) constitute a monetary credit that, sub-
5 ject to paragraph (2), may be applied, at the
6 election of the holder or holders of the certifi-
7 cate of bidding rights, against—

8 (i) rentals, advance royalties, or pro-
9 duction royalties payable to the Secretary
10 under Federal coal leases; and

11 (ii) bonus payments payable to the
12 Secretary in the issuance of a Federal coal
13 lease or Federal coal lease modification
14 under the coal leasing provisions of the
15 Mineral Leasing Act (30 U.S.C. 181 et
16 seq.); and

17 (2) in a case in which a certificate of bidding
18 rights issued under section 4(a)(2) is applied by the
19 holder or holders of the certificate of bidding rights
20 as a monetary credit against a payment obligation
21 under a Federal coal lease, the holder or holders—

22 (A) may apply the bidding rights only
23 against 50 percent of the amount payable under
24 the lease; and

1 (B) shall pay the remaining 50 percent as
2 provided for under the lease in cash or cash
3 equivalent.

4 (b) PAYMENT UNDER LEASE OBLIGATIONS.—Any
5 payment of a Federal coal lease obligation by the holder
6 or holders of a certificate of bidding rights issued under
7 section 4(a)(2)—

8 (1) shall be treated as money received under
9 section 35 of the Mineral Leasing Act (30 U.S.C.
10 191); but

11 (2) shall be credited and redistributed by the
12 Secretary only as follows:

13 (A) 50 percent of the amount paid in cash
14 or its equivalent shall be—

15 (i) distributed to the State in which
16 the lease is located; and

17 (ii) treated as a redistribution under
18 section 35 of the Mineral Leasing Act (30
19 U.S.C. 191).

20 (B) 50 percent of the amount paid through
21 a crediting of the bidding rights involved shall
22 be treated as a payment that is subject to redis-
23 tribution under that section to the Reclamation

- 1 and Miscellaneous Receipts accounts in the
- 2 Treasury.

