

109TH CONGRESS
1ST SESSION

S. 1251

To authorize the Secretary of Energy to purchase certain essential mineral rights as part of a comprehensive natural resource damage settlement.

IN THE SENATE OF THE UNITED STATES

JUNE 15, 2005

Mr. ALLARD introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To authorize the Secretary of Energy to purchase certain essential mineral rights as part of a comprehensive natural resource damage settlement.

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 “Rocky Flats Environ-
5 mental Technology Site Act of 2005”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) COVENANT NOT TO SUE.—The term “cov-
9 enant not to sue” means—

1 (A) a covenant not to sue under section
2 122(f) of the Comprehensive Environmental Re-
3 sponse, Compensation, and Liability Act of
4 1980 (42 U.S.C. 9622(f)); and

5 (B) any similar covenant by the State of
6 Colorado.

7 (2) ESSENTIAL MINERAL RIGHT.—

8 (A) IN GENERAL.—The term “essential
9 mineral right” means a right to a mineral iden-
10 tified as necessary to transition Rocky Flats to
11 a National Wildlife Refuge by—

12 (i) the Secretary; and

13 (ii) the Secretary of the Interior.

14 (B) INCLUSION.—The term “essential min-
15 eral right” may include a right to a mineral re-
16 ferred to in section VIII(A) of the draft memo-
17 randum of understanding between the Depart-
18 ment of the Interior and the Department of En-
19 ergy, dated March 22, 2005 (70 Fed. Reg.
20 14455).

21 (3) FAIR MARKET VALUE.—The term “fair
22 market value” means the value of a mineral right,
23 as determined by an appraisal performed by an inde-
24 pendent, certified mineral appraiser under the Uni-
25 form Standards of Professional Appraisal Practice.

1 (4) NATURAL RESOURCE DAMAGE LIABILITY.—
2 The term “natural resource damage liability” means
3 natural resource damage liability under section
4 107(a)(4)(C) of the Comprehensive Environmental
5 Response, Compensation, and Liability Act of 1980
6 (42 U.S.C. 9607(a)(4)(C)).

7 (5) ROCKY FLATS.—The term “Rocky Flats”
8 means the Department of Energy facility in the
9 State of Colorado known as the “Rocky Flats Envi-
10 ronmental Technology Site”.

11 (6) SECRETARY.—The term “Secretary” means
12 the Secretary of Energy.

13 (7) TRUSTEES.—The term “Trustees” means
14 the Federal and State officials designated as trust-
15 ees under section 107(f)(2) of the Comprehensive
16 Environmental Response, Compensation, and Liabil-
17 ity Act of 1980 (42 U.S.C. 9607(f)(2)).

18 **SEC. 3. ROCKY FLATS ENVIRONMENTAL TECHNOLOGY**

19 **SITE.**

20 (a) PURCHASE OF ESSENTIAL MINERAL RIGHTS.—

21 (1) IN GENERAL.—Not later than 1 year after
22 the date of enactment of this Act, the Secretary
23 shall use amounts made available under subsection
24 (b) to purchase essential mineral rights at Rocky
25 Flats.

1 (2) CONDITIONS.—The Secretary shall not pur-
2 chase an essential mineral right under paragraph (1)
3 unless—

4 (A) the owner of the essential mineral
5 right is a willing seller;

6 (B) the Secretary purchases the essential
7 mineral right at fair market value; and

8 (C)(i) the Trustees enter into a natural re-
9 sources damage settlement providing that the
10 purchase of essential mineral rights satisfies
11 any existing or potential natural resource dam-
12 age liability claim arising from releases of haz-
13 ardous substances identified in the administra-
14 tive record for the site as of the date of enact-
15 ment of this Act; and

16 (ii) the settlement includes a covenant not
17 to sue.

18 (3) LIMITATION.—The Secretary shall purchase
19 essential mineral rights under paragraph (1) and
20 satisfy any obligation of the Secretary under a set-
21 tlement of a natural resource damage claim at
22 Rocky Flats under section 122(f) of the Comprehen-
23 sive Environmental Response, Compensation, and
24 Liability Act of 1980 (42 U.S.C. 9622(f)) using only
25 funds made available under subsection (b).

1 (4) UNWILLING SELLERS.—If an owner of an
2 essential mineral right refuses to sell the right to the
3 Secretary at fair market value, the Secretary may
4 satisfy any natural resource damage liability obliga-
5 tion of the Secretary to the Trustees by paying to
6 the Trustees an amount equal to the fair market
7 value of the essential mineral right owned by the un-
8 willing seller as part of a settlement of a natural re-
9 source damage claim under section 122(f) of the
10 Comprehensive Environmental Response, Compensa-
11 tion, and Liability Act of 1980 (42 U.S.C. 9622(f)).

12 (5) RELEASE FROM LIABILITY.—Notwith-
13 standing any other law, any claim for damage to a
14 natural resource under section 107(f) of the Com-
15 prehensive Environmental Response, Compensation,
16 and Liability Act of 1980 (42 U.S.C. 9607(f)) shall
17 be considered to be satisfied by—

18 (A) a purchase by the Secretary of an es-
19 sential mineral right under paragraph (1); or

20 (B) a payment by the Secretary to the
21 Trustees under paragraph (4).

22 (6) EXEMPTION FROM NATIONAL ENVIRON-
23 MENTAL POLICY ACT.—A purchase of an essential
24 mineral right under this subsection shall be exempt

1 from the National Environmental Policy Act of 1969
2 (42 U.S.C. 4321 et seq.).

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated to carry out this section
5 \$10,000,000 for fiscal year 2006.

○