

109TH CONGRESS  
1ST SESSION

# S. 1835

To authorize the Secretary of Energy to purchase certain essential mineral rights and resolve natural resource damage liability claims.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 6, 2005

Mr. ALLARD (for himself and Mr. SALAZAR) introduced the following bill;  
which was read twice and referred to the Committee on Armed Services

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## A BILL

To authorize the Secretary of Energy to purchase certain essential mineral rights and resolve natural resource damage liability claims.

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. ROCKY FLATS ENVIRONMENTAL TECHNOLOGY**

4                       **SITE.**

5               (a) DEFINITIONS.—In this Act:

6                       (1) ESSENTIAL MINERAL RIGHT.—The term  
7               “essential mineral right” means a right to mine  
8               sand and gravel at Rocky Flats, as depicted on the  
9               map.

1           (2) FAIR MARKET VALUE.—The term “fair  
2           market value” means the value of an essential min-  
3           eral right, as determined by an appraisal performed  
4           by an independent, certified mineral appraiser under  
5           the Uniform Standards of Professional Appraisal  
6           Practice.

7           (3) MAP.—The term “map” means the map en-  
8           titled “Rocky Flats National Wildlife Refuge”, dated  
9           July 25, 2005, and available for inspection in appro-  
10          priate offices of the United States Fish and Wildlife  
11          Service and the Department of Energy.

12          (4) NATURAL RESOURCE DAMAGE LIABILITY  
13          CLAIM.—The term “natural resource damage liabil-  
14          ity claim” means a natural resource damage liability  
15          claim under subsections (a)(4)(C) and (f) of section  
16          107 of the Comprehensive Environmental Response,  
17          Compensation, and Liability Act of 1980 (42 U.S.C.  
18          9607) arising from hazardous substances releases at  
19          or from Rocky Flats that, as of the date of enact-  
20          ment of this Act, are identified in the administrative  
21          record for Rocky Flats required by the National Oil  
22          and Hazardous Substances Pollution Contingency  
23          Plan prepared under section 105 of that Act (42  
24          U.S.C. 9605).

1           (5) ROCKY FLATS.—The term “Rocky Flats”  
 2 means the Department of Energy facility in the  
 3 State of Colorado known as the “Rocky Flats Envi-  
 4 ronmental Technology Site”.

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

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

12       (b) PURCHASE OF ESSENTIAL MINERAL RIGHTS.—

13           (1) IN GENERAL.—Not later than 1 year after  
 14 the date of enactment of this Act, such amounts au-  
 15 thorized to be appropriated under subsection (c)  
 16 shall be available to the Secretary to purchase essen-  
 17 tial mineral rights at Rocky Flats.

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

21           (A) the owner of the essential mineral  
 22 right is a willing seller; and

23           (B) the Secretary purchases the essential  
 24 mineral right for an amount that does not ex-  
 25 ceed fair market value.

1           (3) LIMITATION.—Only those funds authorized  
 2           to be appropriated under subsection (c) shall be  
 3           available for the Secretary to purchase essential  
 4           mineral rights under paragraph (1).

5           (4) RELEASE FROM LIABILITY.—Notwith-  
 6           standing any other law, any natural resource dam-  
 7           age liability claim shall be considered to be satisfied  
 8           by—

9                   (A) the purchase by the Secretary of essen-  
 10           tial mineral rights under paragraph (1) for con-  
 11           sideration in an amount equal to \$10,000,000;

12                   (B) the payment by the Secretary to the  
 13           Trustees of \$10,000,000; or

14                   (C) the purchase by the Secretary of any  
 15           portion of the mineral rights under paragraph  
 16           (1) for—

17                           (i) consideration in an amount less  
 18                           than \$10,000,000; and

19                           (ii) a payment by the Secretary to the  
 20           Trustees of an amount equal to the dif-  
 21           ference between—

22                                   (I) \$10,000,000; and

23                                   (II) the amount paid under  
 24           clause (i).

25           (5) USE OF FUNDS.—

1 (A) IN GENERAL.—Any amounts received  
2 under paragraph (4) shall be used by the Trust-  
3 ees for the purposes described in section  
4 107(f)(1) of the Comprehensive Environmental  
5 Response, Compensation, and Liability Act of  
6 1980 (42 U.S.C. 9607(f)(1)), including—

7 (i) the purchase of additional mineral  
8 rights at Rocky Flats; and

9 (ii) the development of habitat res-  
10 toration projects at Rocky Flats.

11 (B) CONDITION.—Any expenditure of  
12 funds under this paragraph shall be made joint-  
13 ly by the Trustees.

14 (C) ADDITIONAL FUNDS.—The Trustees  
15 may use the funds received under paragraph  
16 (4) in conjunction with other private and public  
17 funds.

18 (6) EXEMPTION FROM NATIONAL ENVIRON-  
19 MENTAL POLICY ACT.—Any purchases of mineral  
20 rights under this subsection shall be exempt from  
21 the National Environmental Policy Act of 1969 (42  
22 U.S.C. 4321 et seq.).

23 (7) ROCKY FLATS NATIONAL WILDLIFE REF-  
24 UGE.—

(A) TRANSFER OF MANAGEMENT RESPONSIBILITIES.—The Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 107–107) is amended—

(i) in section 3175—

(I) by striking subsections (b) and (f); and

(II) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(ii) in section 3176(a)(1), by striking “section 3175(d)” and inserting “section 3175(c)”.

(B) BOUNDARIES.—Section 3177 of the Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 107–107) is amended by striking subsection (c) and inserting the following:

“(c) COMPOSITION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the refuge shall consist of land within the boundaries of Rocky Flats, as depicted on the map—

“(A) entitled ‘Rocky Flats National Wildlife Refuge’;

1 “(B) dated July 25, 2005; and

2 “(C) available for inspection in the appro-  
3 priate offices of the United States Fish and  
4 Wildlife Service and the Department of Energy.

5 “(2) EXCLUSIONS.—The refuge does not in-  
6 clude—

7 “(A) any land retained by the Department  
8 of Energy for response actions under section  
9 3175(c);

10 “(B) any land depicted on the map de-  
11 scribed in paragraph (1) that is subject to 1 or  
12 more essential mineral rights described in sec-  
13 tion 3114(a) of the National Defense Author-  
14 ization Act for Fiscal Year 2006 over which the  
15 Secretary shall retain jurisdiction of the surface  
16 estate until the essential mineral rights—

17 “(i) are purchased under subsection  
18 (b) of that Act; or

19 “(ii) are mined and reclaimed by the  
20 mineral rights holders in accordance with  
21 requirements established by the State of  
22 Colorado; and

23 “(C) the land depicted on the map de-  
24 scribed in paragraph (1) on which essential  
25 mineral rights are being actively mined as of

1           the date of enactment of this subparagraph  
2           until—

3                   “(i) the essential mineral rights are  
4                   purchased; or

5                   “(ii) the surface estate is reclaimed by  
6                   the mineral rights holder in accordance  
7                   with requirements established by the State  
8                   of Colorado.

9           “(3) ACQUISITION OF ADDITIONAL LAND.—Not-  
10       withstanding paragraph (2), upon the purchase of  
11       the mineral rights or reclamation of the land de-  
12       picted on the map described in paragraph (1), the  
13       Secretary shall—

14                   “(A) transfer the land to the Secretary of  
15                   the Interior for inclusion in the refuge; and

16                   “(B) the Secretary of the Interior shall—

17                           “(i) accept the transfer of the land;  
18                   and

19                           “(ii) manage the land as part of the  
20                   refuge.”.

21       (c) FUNDING.—Of the amounts authorized to be ap-  
22       propriated to the Secretary for the Rocky Flats Environ-  
23       mental Technology Site for fiscal year 2006, \$10,000,000



- 1 shall be made available to the Secretary for the purposes
- 2 described in subsection (b).

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