

105TH CONGRESS
2^D SESSION

S. 638

AN ACT

To provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 Act that established the Monument, and for other purposes.

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 “Mount St. Helens Na-
5 tional Volcanic Monument Completion Act”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds that—

3 (1) the Act entitled “An Act to designate the
4 Mount St. Helens National Volcanic Monument in
5 the State of Washington, and for other purposes”,
6 approved August 26, 1982 (96 Stat. 301; 16 U.S.C.
7 431 note), required the United States to acquire all
8 land and interests in land in the Mount St. Helens
9 National Volcanic Monument;

10 (2) the Act directed the Secretary of Agri-
11 culture to acquire the surface interests and the min-
12 eral and geothermal interests by separate exchanges
13 and expressed the sense of Congress that the ex-
14 changes be completed by November 24, 1982, and
15 August 26, 1983, respectively; and

16 (3) the surface interests exchange was con-
17 summated timely, but the exchange of all mineral
18 and geothermal interests has not yet been completed
19 a decade and a half after the Act’s enactment.

20 (b) PURPOSE.—The purpose of this Act is to provide
21 for the expeditious completion of the previously mandated
22 Federal acquisition of private mineral and geothermal in-
23 terests within the Mount St. Helens National Volcanic
24 Monument.

1 **SEC. 3. ACQUISITION OF MINERAL RIGHTS WITHIN THE NA-**
2 **TIONAL VOLCANIC MONUMENT.**

3 Section 3 of the Act entitled “An Act to designate
4 the Mount St. Helens National Volcanic Monument in the
5 State of Washington, and for other purposes”, approved
6 August 26, 1982 (96 Stat. 302; 16 U.S.C. 431 note), is
7 amended—

8 (1) in subsection (a), by striking “and except
9 that the Secretary may acquire mineral and geo-
10 thermal interests only by exchange. It is the sense
11 of the Congress that in the case of mineral and geo-
12 thermal interests such exchanges should be com-
13 pleted within one year after the date of enactment
14 of this Act”; and

15 (2) by adding at the end the following:

16 “(g) **EXPEDITIOUS COMPLETION OF MINERAL AND**
17 **GEOTHERMAL INTERESTS.—**

18 “(1) **DEFINITION OF HOLDER.—**In this sub-
19 section, the term ‘holder’ means a company, or its
20 successor, referred to in subsection (c).

21 “(2) **IN GENERAL.—**Within the period described
22 in paragraph (7), the Secretary of the Interior shall
23 acquire by exchange the mineral and geothermal in-
24 terests in the Monument of each holder.

25 “(3) **MONETARY CREDITS.—**

1 “(A) ISSUANCE.—In exchange for the min-
2 eral and geothermal interests acquired by the
3 Secretary of the Interior from a holder under
4 paragraph (2), the Secretary of the Interior
5 shall issue to the holder monetary credits that
6 may be exercised by the holder for payment
7 of—

8 “(i) not more than 50 percent of the
9 bonus or other payments made by success-
10 ful bidders in any sales of mineral, oil, gas,
11 or geothermal leases under the Mineral
12 Leasing Act (30 U.S.C. 181 et seq.), the
13 Outer Continental Shelf Lands Act (43
14 U.S.C. 1331 et seq.), or the Geothermal
15 Steam Act of 1970 (30 U.S.C. 1001 et
16 seq.); or

17 “(ii) not more than 50 percent of any
18 royalty, rental, or advance royalty payment
19 made to the United States to maintain any
20 mineral, oil or gas, or geothermal lease
21 issued under the Acts listed in clause (i).

22 “(B) VALUE OF CREDITS.—The credits
23 issued under subparagraph (A) shall equal the
24 fair market value of all mineral and geothermal

1 interests conveyed in the exchange as deter-
2 mined under paragraph (4).

3 “(C) ACCEPTANCE OF CREDITS.—The Sec-
4 retary of the Interior shall accept credits issued
5 under subparagraph (A) in the same manner as
6 cash for the payments described in subpara-
7 graph (A). The use and exercise of the credits
8 shall be subject to the laws (including regula-
9 tions) governing such payments, to the extent
10 the laws are consistent with this subsection.

11 “(D) TREATMENT OF CREDITS FOR DIS-
12 TRIBUTION TO STATES.—All amounts in the
13 form of credits accepted by the Secretary of the
14 Interior under subparagraph (C) for the pay-
15 ments described in subparagraph (A) shall be
16 considered to be money received for the purpose
17 of section 35 of the Mineral Leasing Act (30
18 U.S.C. 191) and section 20 of the Geothermal
19 Steam Act of 1970 (30 U.S.C. 1019).

20 “(4) VALUATION OF INTERESTS.—

21 “(A) IN GENERAL.—Not later than 120
22 days after the date of enactment of this sub-
23 section, the mineral and geothermal interests to
24 be conveyed by each holder in the exchanges re-
25 quired by paragraph (2) shall be valued by one

1 of the following methods, as selected by the
2 Secretary of the Interior:

3 “(i) USE OF APPRAISAL REPORT.—

4 The 1982 value established by the report
5 of the third party appraisal completed on
6 September 11, 1991, shall be adjusted to
7 reflect changes in the consumer price index
8 for all urban consumers published by the
9 Department of Labor as of the date on
10 which the exchange is to be consummated
11 pursuant to paragraph (7), or such other
12 value as shall be mutually agreed to by the
13 Secretary of the Interior and the holders
14 not later than 30 days after the date of en-
15 actment of this subsection.

16 “(ii) NEW APPRAISAL.—

17 “(I) SELECTION OF AP-
18 PRAISER.—Not later than 30 days
19 after the date of enactment of this
20 subsection, the Secretary of the Inte-
21 rior and the holders shall mutually
22 agree on the selection of a qualified
23 appraiser to conduct an appraisal of
24 the mineral and geothermal interests.

1 “(II) NO AGREEMENT ON AP-
2 PRAISER.—If no appraiser is mutually
3 agreed to under subclause (I), not
4 later than 60 days after the date of
5 enactment of this subsection—

6 “(aa) the Secretary of the
7 Interior and the holders shall
8 each designate a qualified ap-
9 praiser; and

10 “(bb) the two designated ap-
11 praisers shall select a third quali-
12 fied appraiser to perform the ap-
13 praisal with the advice and as-
14 sistance of the designated ap-
15 praisers and in accordance with
16 the instructions that were mutu-
17 ally agreed on for the September
18 11, 1991, third part appraisal.

19 “(III) DATE OF VALUATION.—
20 The value of the mineral and geo-
21 thermal interests to be conveyed by
22 each holder shall be calculated as of
23 August 26, 1982, adjusted to reflect
24 changes in the consumer price index
25 for all urban consumers published by

1 the Department of Labor as of the
2 date on which the exchange is to be
3 consummated pursuant to paragraph
4 (7).

5 “(IV) COSTS.—The Secretary of
6 the Interior shall bear the costs of the
7 process established by this clause.

8 “(B) TIMELY APPRAISAL REPORT.—The
9 appraisal report resulting from subparagraph
10 (A) shall be presented to the Secretary of the
11 Interior timely to permit the Secretary of the
12 Interior to determine the value of the mineral
13 and geothermal interests to be conveyed by each
14 holder. Not later than the date that is 180 days
15 after the date of enactment of this subsection,
16 the Secretary of the Interior shall notify each
17 holder of the determination.

18 “(C) FAILURE OF PROCESS.—If the Sec-
19 retary of the Interior fails to make a determina-
20 tion under subparagraph (B) by the date that
21 is 180 days after the date of enactment of this
22 subsection or if any holder does not agree with
23 the value determined by the Secretary of the
24 Interior under subparagraph (B), one or more
25 of the holders may petition the United States

1 Court of Federal Claims for a determination of
2 the value of the mineral and geothermal inter-
3 ests to be conveyed by the holders in accordance
4 with this subsection. Subject to the right of ap-
5 peal, a determination by the Court shall be
6 binding for purposes of this subsection on all
7 parties.

8 “(5) EXCHANGE ACCOUNT.—

9 “(A) IN GENERAL.—Notwithstanding any
10 other provision of law, not later than 30 days
11 after the completion of each exchange with a
12 holder required by this subsection, the Sec-
13 retary of the Interior shall establish, with the
14 Minerals Management Service of the Depart-
15 ment of the Interior, an exchange account for
16 the holder for monetary credits described in
17 paragraph (3).

18 “(B) INITIAL BALANCE.—The initial bal-
19 ance of credits in each holder’s account shall be
20 equal to the value as determined under para-
21 graph (4) of the mineral and geothermal inter-
22 ests conveyed by the holder in the exchange.

23 “(C) USE OF CREDITS.—The balance of
24 credits in a holder’s account shall be available
25 to the holder or its assigns for the purposes of

1 paragraph (3). The Secretary of the Interior
2 shall adjust the balance of credits in the ac-
3 count to reflect payments made pursuant to
4 paragraph (3).

5 “(D) TRANSFER OF CREDITS.—

6 “(i) IN GENERAL.—A holder may
7 transfer or sell any credits in the holder’s
8 account to another person.

9 “(ii) USE OF TRANSFERRED CRED-
10 ITS.—Credits transferred under clause (i)
11 may be used in accordance with this sub-
12 section only by a person that is qualified to
13 bid on, or that holds, a mineral, oil, or gas
14 lease under the Mineral Leasing Act (30
15 U.S.C. 181 et seq.), the Outer Continental
16 Shelf Lands Act (43 U.S.C. 1331 et seq.),
17 or the Geothermal Steam Act of 1970 (30
18 U.S.C. 1001 et seq.).

19 “(iii) NOTIFICATION.—A holder shall
20 notify the Secretary of the Interior of any
21 transfer or sale under this subparagraph
22 promptly after the transfer or sale.

23 “(E) TIME LIMIT ON USE OF CREDITS.—

24 On the date that is 5 years after an account is
25 created under subparagraph (A), the Secretary

1 of the Interior shall terminate the account and
2 any remaining credits in the account shall be-
3 come unusable.

4 “(6) TITLE TO INTERESTS.—On the date of the
5 establishment of an exchange account for a holder
6 under paragraph (5)(A), title to any mineral and
7 geothermal interests that are held by the holder and
8 are to be acquired by the Secretary of the Interior
9 under paragraph (2) shall transfer to the United
10 States.

11 “(7) COMPLETION OF EXCHANGES.—The Sec-
12 retary of the Interior shall complete the exchanges
13 under paragraph (2) not later than 180 days after
14 the date of enactment of this subsection or as soon
15 as practicable after completion of the process de-
16 scribed in paragraph (4)(C).”.

Passed the Senate July 17, 1998.

Attest:

Secretary.

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