

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.

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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

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## 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           (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.

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