

Calendar No. 1004110TH CONGRESS
2^D SESSION**S. 3179**

To authorize the conveyance of certain public land in the State of New Mexico owned or leased by the Department of Energy, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 23, 2008

Mr. BINGAMAN (for himself and Mr. DOMENICI) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

SEPTEMBER 16, 2008

Reported by Mr. BINGAMAN, with an amendment

[Insert the part printed in italic]

A BILL

To authorize the conveyance of certain public land in the State of New Mexico owned or leased by the Department of Energy, 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 “Lovelace Respiratory
5 Research Institute Land Conveyance Act”.

1 **SEC. 2. DEFINITION.**

2 In this Act:

3 (1) INSTITUTE.—The term “Institute” means
4 the Lovelace Respiratory Research Institute, a non-
5 profit organization chartered under the laws of the
6 State of New Mexico.

7 (2) MAP.—The term “map” means the map en-
8 titled “Lovelace Respiratory Research Institute
9 Land Conveyance” and dated March 18, 2008.

10 (3) SECRETARY CONCERNED.—The term “Sec-
11 retary concerned” means—

12 (A) the Secretary of Energy, with respect
13 to matters concerning the Department of En-
14 ergy;

15 (B) the Secretary of the Interior, with re-
16 spect to matters concerning the Department of
17 the Interior; and

18 (C) the Secretary of the Air Force, with
19 respect to matters concerning the Department
20 of the Air Force.

21 (4) SECRETARY OF ENERGY.—The term “Sec-
22 retary of Energy” means the Secretary of Energy,
23 acting through the Administrator for the National
24 Nuclear Security Administration.

1 **SEC. 3. CONVEYANCE OF LAND.**

2 (a) IN GENERAL.—Notwithstanding section 120(h)
3 of the Comprehensive Environmental Response, Com-
4 pensation, and Liability Act of 1980 (42 U.S.C. 9620(h))
5 and subject to valid existing rights and this Act, the Sec-
6 retary of Energy, in consultation with the Secretary of the
7 Interior and the Secretary of the Air Force, may convey
8 to the Institute, on behalf of the United States, all right,
9 title, and interest of the United States in and to the parcel
10 of land described in subsection (b) for research, scientific,
11 or educational use.

12 (b) DESCRIPTION OF LAND.—The parcel of land re-
13 ferred to in subsection (a)—

14 (1) is the approximately 135 acres of land iden-
15 tified as “Parcel A” on the map;

16 (2) includes any improvements to the land de-
17 scribed in paragraph (1); and

18 (3) excludes any portion of the utility system
19 and infrastructure reserved by the Secretary of the
20 Air Force under subsection (d).

21 (c) OTHER FEDERAL AGENCIES.—The Secretary of
22 the Interior and the Secretary of the Air Force shall com-
23 plete any real property actions, including the revocation
24 of any Federal withdrawals of the parcel conveyed under
25 subsection (a) and the parcel described in section (4)(a),
26 that are necessary to allow the Secretary of Energy to—

- 1 (1) convey the parcel under subsection (a); or
2 (2) transfer administrative jurisdiction under
3 section 4.

4 (d) RESERVATION OF UTILITY INFRASTRUCTURE
5 AND ACCESS.—The Secretary of the Air Force may retain
6 ownership and control of—

7 (1) any portions of the utility system and infra-
8 structure located on the parcel conveyed under sub-
9 section (a); and

10 (2) any rights of access determined to be nec-
11 essary by the Secretary of the Air Force to operate
12 and maintain the utilities on the parcel.

13 (e) RESTRICTIONS ON USE.—

14 (1) AUTHORIZED USES.—The Institute shall
15 allow only research, scientific, or educational uses of
16 the parcel conveyed under subsection (a).

17 (2) REVERSION.—

18 (A) IN GENERAL.—If, at any time, the
19 Secretary of Energy, in consultation with the
20 Secretary of the Air Force, determines, in ac-
21 cordance with subparagraph (B), that the par-
22 cel conveyed under subsection (a) is not being
23 used for a purpose described in paragraph
24 (1)—

1 (i) all right, title, and interest in and
2 to the entire parcel, or any portion of the
3 parcel not being used for the purposes,
4 shall revert, at the option of the Secretary,
5 to the United States; and

6 (ii) the United States shall have the
7 right of immediate entry onto the parcel.

8 (B) REQUIREMENTS FOR DETERMINA-
9 TION.—Any determination of the Secretary
10 under subparagraph (A) shall be made on the
11 record and after an opportunity for a hearing.

12 (f) COSTS.—

13 (1) IN GENERAL.—The Secretary of Energy
14 shall require the Institute to pay, or reimburse the
15 Secretary concerned, for any costs incurred by the
16 Secretary concerned in carrying out the conveyance
17 under subsection (a), including any survey costs re-
18 lated to the conveyance.

19 (2) REFUND.—If the Secretary concerned col-
20 lects amounts under paragraph (1) from the Insti-
21 tute before the Secretary concerned incurs the actual
22 costs, and the amount collected exceeds the actual
23 costs incurred by the Secretary concerned to carry
24 out the conveyance, the Secretary concerned shall re-

1 fund to the Institute an amount equal to difference
2 between—

3 (A) the amount collected by the Secretary
4 concerned; and

5 (B) the actual costs incurred by the Sec-
6 retary concerned.

7 (3) DEPOSIT IN FUND.—

8 (A) IN GENERAL.—Amounts received by
9 the United States under this subsection as a re-
10 imbursement or recovery of costs incurred by
11 the Secretary concerned to carry out the con-
12 veyance under subsection (a) shall be deposited
13 in the fund or account that was used to cover
14 the costs incurred by the Secretary concerned
15 in carrying out the conveyance.

16 (B) USE.—Any amounts deposited under
17 subparagraph (A) shall be available for the
18 same purposes, and subject to the same condi-
19 tions and limitations, as any other amounts in
20 the fund or account.

21 (g) CONTAMINATED LAND.—In consideration for the
22 conveyance of the parcel under subsection (a), the Insti-
23 tute shall—

24 (1) take fee title to the parcel and any improve-
25 ments to the parcel, as contaminated;

1 (2) be responsible for undertaking and com-
2 pleting all environmental remediation required at, in,
3 under, from, or on the parcel for all environmental
4 conditions relating to or arising from the release or
5 threat of release of waste material, substances, or
6 constituents, in the same manner and to the same
7 extent as required by law applicable to privately
8 owned facilities, regardless of the date of the con-
9 tamination or the responsible party;

10 (3) indemnify the United States for—

11 (A) any environmental remediation or re-
12 sponse costs the United States reasonably in-
13 curs if the Institute fails to remediate the par-
14 cel; or

15 (B) contamination at, in, under, from, or
16 on the land, for all environmental conditions re-
17 lating to or arising from the release or threat
18 of release of waste material, substances, or con-
19 stituents;

20 (4) indemnify, defend, and hold harmless the
21 United States from any damages, costs, expenses, li-
22 abilities, fines, penalties, claim, or demand for loss,
23 including claims for property damage, personal in-
24 jury, or death resulting from releases, discharges,
25 emissions, spills, storage, disposal, or any other acts

1 or omissions by the Institute and any officers,
2 agents, employees, contractors, sublessees, licensees,
3 successors, assigns, or invitees of the Institute arising
4 from activities conducted, *on or after October 1,*
5 *1996,* on the parcel conveyed under subsection (a);
6 and

7 (5) reimburse the United States for all legal
8 and attorney fees, costs, and expenses incurred in
9 association with the defense of any claims described
10 in paragraph (4).

11 (h) CONTINGENT ENVIRONMENTAL RESPONSE OBLI-
12 GATIONS.—If the Institute does not undertake or complete
13 environmental remediation as required by subsection (g)
14 and the United States is required to assume the respon-
15 sibilities of the remediation, the Secretary of Energy shall
16 be responsible for conducting any necessary environmental
17 remediation or response actions with respect to the parcel
18 conveyed under subsection (a).

19 (i) NO ADDITIONAL COMPENSATION.—Except as oth-
20 erwise provided in this Act, no additional consideration
21 shall be required for conveyance of the parcel to the Insti-
22 tute under subsection (a).

23 (j) ACCESS AND UTILITIES.—On conveyance of the
24 parcel under subsection (a), the Secretary of the Air Force
25 shall, on behalf of the United States and subject to any

1 terms and conditions as the Secretary determines to be
2 necessary (including conditions providing for the reim-
3 bursement of costs), provide the Institute with—

4 (1) access for employees and invitees of the In-
5 stitute across Kirtland Air Force Base to the parcel
6 conveyed under that subsection; and

7 (2) access to utility services for the land and
8 any improvements to the land conveyed under that
9 subsection.

10 (k) **ADDITIONAL TERM AND CONDITIONS.**—The Sec-
11 retary of Energy, in consultation with the Secretary of the
12 Interior and Secretary of the Air Force, may require any
13 additional terms and conditions for the conveyance under
14 subsection (a) that the Secretaries determine to be appro-
15 priate to protect the interests of the United States.

16 **SEC. 4. TRANSFER OF ADMINISTRATIVE JURISDICTION.**

17 (a) **IN GENERAL.**—After the conveyance under sec-
18 tion 3(a) has been completed, the Secretary of Energy
19 shall, on request of the Secretary of the Air Force, trans-
20 fer to the Secretary of the Air Force administrative juris-
21 diction over the parcel of approximately 7 acres of land
22 identified as “Parcel B” on the map, including any im-
23 provements to the parcel.

24 (b) **REMOVAL OF IMPROVEMENTS.**—In concurrence
25 with the transfer under subsection (a), the Secretary of

- 1 Energy shall, on request of the Secretary of the Air Force,
- 2 arrange and pay for removal of any improvements to the
- 3 parcel transferred under that subsection.

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