

MOUNT ST. HELENS NATIONAL VOLCANIC MONUMENT
COMPLETION ACT

SEPTEMBER 11, 1998.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 1659]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1659) 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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Mount St. Helens National Volcanic Monument Completion Act”.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

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

(2) the Act directed the Secretary of Agriculture to acquire the surface interests and the mineral and geothermal interests by separate exchanges and expressed the sense of Congress that the exchanges be completed by November 24, 1982, and August 26, 1983, respectively; and

(3) the surface interests exchange was consummated timely, but the exchange of all mineral and geothermal interests has not yet been completed a decade and a half after the Act’s enactment.

(b) PURPOSE.—The purpose of this Act is to provide for the expeditious completion of the previously mandated Federal acquisition of private mineral and geothermal interests within the Mount St. Helens National Volcanic Monument.

SEC. 3. ACQUISITION OF MINERAL RIGHTS WITHIN THE NATIONAL VOLCANIC MONUMENT.

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

(1) in subsection (a), by striking “and except that the Secretary may acquire mineral and geothermal interests only by exchange. It is the sense of the Congress that in the case of mineral and geothermal interests such exchanges should be completed within one year after the date of enactment of this Act”; and

(2) by adding at the end the following:

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

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

“(2) IN GENERAL.—Within the period described in paragraph (7), the Secretary of the Interior shall acquire by exchange the mineral and geothermal interests in the Monument of each holder.

“(3) MONETARY CREDITS.—

“(A) ISSUANCE.—In exchange for the mineral and geothermal interests acquired by the Secretary of the Interior from a holder under paragraph (2), the Secretary of the Interior shall issue to the holder monetary credits that may be exercised by the holder for payment of—

“(i) not more than 50 percent of the bonus or other payments made by successful bidders in any sales of mineral, oil, gas, or geothermal leases under the Mineral Leasing Act (30 U.S.C. 181 et seq.), the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.); or

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

“(B) VALUE OF CREDITS.—The credits issued under subparagraph (A) shall equal the fair market value of all mineral and geothermal interests conveyed in the exchange as determined under paragraph (4).

“(C) ACCEPTANCE OF CREDITS.—The Secretary of the Interior shall accept credits issued under subparagraph (A) in the same manner as cash for the payments described in subparagraph (A). The use and exercise of the credits shall be subject to the laws (including regulations) governing such payments, to the extent the laws are consistent with this subsection.

“(D) TREATMENT OF CREDITS FOR DISTRIBUTION TO STATES.—All amounts in the form of credits accepted by the Secretary of the Interior under subparagraph (C) for the payments described in subparagraph (A) shall be considered to be money received for the purpose of section 35 of the Mineral Leasing Act (30 U.S.C. 191) and section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019).

“(4) VALUATION OF INTERESTS.—

“(A) IN GENERAL.—Not later than 120 days after the date of enactment of this subsection, the mineral and geothermal interests to be conveyed by each holder in the exchanges required by paragraph (2) shall be valued by one of the following methods, as selected by the Secretary of the Interior:

“(i) USE OF APPRAISAL REPORT.—The 1982 value established by the report of the third party appraisal completed on September 11, 1991, shall be adjusted to reflect changes in the consumer price index for all urban consumers published by the Department of Labor as of the date on which the exchange is to be consummated pursuant to paragraph (7), or such other value as shall be mutually agreed to by the Secretary of the Interior and the holders not later than 30 days after the date of enactment of this subsection.

“(ii) NEW APPRAISAL.—

“(I) SELECTION OF APPRAISER.—Not later than 30 days after the date of enactment of this subsection, the Secretary of the Interior and the holders shall mutually agree on the selection of a qualified appraiser to conduct an appraisal of the mineral and geothermal interests.

“(II) NO AGREEMENT ON APPRAISER.—If no appraiser is mutually agreed to under subclause (I), not later than 60 days after the date of enactment of this subsection—

“(aa) the Secretary of the Interior and the holders shall each designate a qualified appraiser; and

“(bb) the two designated appraisers shall select a third qualified appraiser to perform the appraisal with the advice and assistance of the designated appraisers and in accordance with the instructions that were mutually agreed on for the September 11, 1991, third part appraisal.

“(III) DATE OF VALUATION.—The value of the mineral and geothermal interests to be conveyed by each holder shall be calculated as of August 26, 1982, adjusted to reflect changes in the consumer price index for all urban consumers published by the Department of Labor as of the date on which the exchange is to be consummated pursuant to paragraph (7).

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

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

“(C) FAILURE OF PROCESS.—If the Secretary of the Interior fails to make a determination under subparagraph (B) by the date that is 180 days after the date of enactment of this subsection or if any holder does not agree with the value determined by the Secretary of the Interior under subparagraph (B), one or more of the holders may petition the United States Court of Federal Claims for a determination of the value of the mineral and geothermal interests to be conveyed by the holders in accordance with this subsection. Subject to the right of appeal, a determination by the Court shall be binding for purposes of this subsection on all parties.

“(5) EXCHANGE ACCOUNT.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, not later than 30 days after the completion of each exchange with a holder required by this subsection, the Secretary of the Interior shall establish, with the Minerals Management Service of the Department of the Interior, an exchange account for the holder for monetary credits described in paragraph (3).

“(B) INITIAL BALANCE.—The initial balance of credits in each holder’s account shall be equal to the value as determined under paragraph (4) of the mineral and geothermal interests conveyed by the holder in the exchange.

“(C) USE OF CREDITS.—The balance of credits in a holder’s account shall be available to the holder or its assigns for the purposes of paragraph (3). The Secretary of the Interior shall adjust the balance of credits in the account to reflect payments made pursuant to paragraph (3).

“(D) TRANSFER OF CREDITS.—

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

“(ii) USE OF TRANSFERRED CREDITS.—Credits transferred under clause (i) may be used in accordance with this subsection only by a person that is qualified to bid on, or that holds, a mineral, oil, or gas lease under the Mineral Leasing Act (30 U.S.C. 181 et seq.), the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

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

“(E) TIME LIMIT ON USE OF CREDITS.—On the date that is 5 years after an account is created under subparagraph (A), the Secretary of the Interior shall terminate the account and any remaining credits in the account shall become unusable.

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

“(7) COMPLETION OF EXCHANGES.—The Secretary of the Interior shall complete the exchanges under paragraph (2) not later than 180 days after the date of enactment of this subsection or as soon as practicable after completion of the process described in paragraph (4)(C).”.

PURPOSE OF THE BILL

The purpose of H.R. 1659 is 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.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 1659 directs the Secretary of the Interior to fulfill a 1982 statutory requirement that the federal government acquire the private lands and minerals within the Mount St. Helens National Volcanic Monument. It requires the Secretary to acquire by exchange the mineral and geothermal interests in the Monument that are owned by two private entities, Burlington Resources Inc. and Weyerhaeuser Company.

The bill establishes a new time frame for completion of the exchange, including a process to supplement or replace existing appraisals. It also directs the Secretary to issue monetary credits in exchange for the mineral and geothermal interests. The credits may be used toward payment for other mineral, oil, gas or geothermal leases. If the credits are not used within five years, the unused credits will be terminated.

The August 26, 1982, Act that established the Mount St. Helens National Volcanic Monument required the U.S. to acquire all land and interests in land in the Monument, including the surface interests and the mineral and geothermal interests, by separate exchanges to be completed by November 1982 and August 1983.

The exchange of surface interests was completed in 1983, and the government and companies began the process to complete the mineral exchange. The Forest Service and companies reached a tentative agreement for the exchange of mineral rights on an acre-for-acre basis. The 1982 Act required the mineral exchange to be completed one year after enactment, by August 1983. However, this exchange fell apart at the last minute when the Bureau of Land Management disagreed over the value of certain lands to be exchanged and concerns that some surface management conflicts could arise on selected tracts.

The parties eventually agreed to break the exchange into phases, first disposing of those mineral rights where the parties agreed on the value, and then having a third party appraisal completed for the remainder of the companies' geothermal and mineral rights. The first phase of the mineral exchange was completed in 1991, eight years after the statutory deadline. For the remaining lands, estimates of mineral and geothermal values ranged from a low of \$250,000 to a high of \$80 million.

To complete the balance of the exchange, the parties agreed to third party appraisal procedures. An appraisal was completed at the end of 1991 after nine months of study and a cost of \$55,000. Half the cost was paid for by the Forest Service and half was shared by the two companies. The appraised value for both compa-

nies' interests was between \$5 million and \$7 million. The companies accepted the appraisal, even though outside studies had previously demonstrated much higher mineral and geothermal resource values. The government, however, rejected the appraisal and returned to its original offer which did not recognize any unique value attributable to the geothermal resource.

In November 1997, a new appraisal of the mineral and geothermal interests held by Weyerhaeuser and Burlington Northern was completed, and after reviewing it for technical adequacy the Forest Service approved the appraisal in December 1997. The Forest Service forwarded the appraisal to the two companies and entered negotiations to reach agreement on the acquisition of the mineral and geothermal resources.

The Committee understands that in July 1998, after the Committee on Resources ordered H.R. 1659 favorably reported to the House of Representatives with amendments, the Forest Service and the companies culminated the long and difficult negotiation process and reached agreement on the value of the geothermal and mineral interests. The Committee understands that the companies have agreed to accept the Forest Service's valuation of \$4.2 million (an amount meeting all applicable federal mineral appraisal standards), which sum is to be equally divided between the companies, as compensation for their remaining mineral and geothermal resources. With such agreement, compensation to the companies would be provided by monetary credits available for use in federal mineral programs, as provided under Section 3 of H.R. 1659. This will enable an efficient and timely completion of the exchange at considerable cost savings to the federal government. To reflect this agreement, the Committee intends to offer an amendment when the bill is considered by the House of Representatives inserting the agreed-upon value of the credits (\$4.2 million) and deleting the procedures for determining the value of the interests to be exchanged.

After 15 years, the mineral exchange remains unfinished. H.R. 1659 provides an equitable way to complete the exchange, originally required by the 1982 Act, by establishing a process based on the fair market value of the mineral and geothermal holdings within the monument and by utilizing credits for the exchange in lieu of finding federal lands with a value equal to the private mineral holdings. The credits may be used by the holder for payment of not more than 50 percent of any payments or royalties made to the United States. Legislation is needed to authorize the use of credits for the exchange.

COMMITTEE ACTION

H.R. 1659 was introduced on May 16, 1997, by Congresswoman Linda Smith (R-WA). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks and Public Lands and the Subcommittee on Energy and Mineral Resources. On June 2, 1997, the bill was rereferred to the Subcommittees on Forest and Forest Health and Energy and Mineral Resources. On October 28, 1997, the Subcommittee on Forests and Forest Health held a hearing on H.R. 1659, where the Bureau of Land Management and the Forest Service testified on behalf of the Administration. The companies involved in the exchange

and a geothermal resources consultant also testified. The Administration expressed support for the expeditious acquisition of the privately held mineral rights and indicated it would like to see the issues resolved.

On November 4, 1997, the Subcommittee on Forest and Forest Health met to mark up H.R. 1659. An amendment in the nature of a substitute to address procedural concerns raised by the Administration was offered by Congressman Helen Chenoweth (R-ID) and adopted by voice vote. As amended, the bill provides that the use of monetary credits do not diminish the share of federal mineral lease revenues, otherwise payable to States and local governments. It also provides that the Minerals Management Service shall be responsible for managing the monetary credits, not the Treasury Department, as originally specified in the bill. The bill was then ordered favorably reported to the Full Committee by voice vote. On June 17, 1998, the Full Resources Committee met to consider H.R. 1659. The Subcommittee on Energy and Mineral Resources was discharged from further consideration of the bill by unanimous consent. No further amendments were offered and the bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3, of the Constitution of the United States grant Congress the authority to enact H.R. 1659.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 1659. However, clause 7(d) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1659 does not contain any increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of H.R. 1659 would increase direct spending by \$10 million over the 1999–2003 period. However, this level of spending would drop to \$4.2 million

after adoption of the proposed Committee amendment by the House of Representatives.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 1659.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1659 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 19, 1998.

Hon. DON YOUNG,
*Chairman, Committee on Resources, House of Representatives,
Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1659, the Mount St. Helens National Volcanic Monument Completion Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Victoria V. Heid.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

H.R. 1659—Mount St. Helens National Volcanic Monument Completion Act

Summary: H.R. 1659 would specify a process for valuing mineral and geothermal interests within the Mount St. Helens National Volcanic Monument and require the Secretary of the Interior to acquire such interests using monetary credits.

CBO estimates that enacting H.R. 1659 would result in a net increase in direct spending of about \$10 million over the 1999–2003 period. Therefore, pay-as-you-go procedures would apply. H.R. 1659 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Description of the bill's major provisions: The Secretary of Agriculture manages the Mount St. Helens National Volcanic Monument within the boundaries of the Gifford Pinchot National Forest. Under current law (Public Law 97–243), the Secretary may acquire mineral and geothermal interests within the boundary of the monument only by exchange. For several years the Forest Service, in cooperation with the Bureau of Land Management (in the Department of the Interior), has negotiated with the owners of about 10,750 acres of subsurface estate within the monument to complete exchanges, but the parties have not yet agreed on the value of the subsurface interests.

H.R. 1659 would modify the methods used by the government to value and acquire these interests. It would specify that the valuation be based on market conditions as of August 26, 1982 (the year the monument was established), adjusted for inflation. The agencies could base that valuation on either an existing third-party appraisal done in 1991 or a new appraisal. If the Secretary of the Interior does not determine the value within 180 days of enactment, or if any holder of interests disagrees with the value determined by the Secretary, then a binding determination would be made by the United States Court of Federal Claims.

Once value is determined, H.R. 1659 would require the Secretary of the Interior to pay for the mineral and geothermal interests by issuing monetary credits, rather than by exchange as under current law. The monetary credits could be used over a five-year period to pay bonuses, royalties, or rent for mineral, oil and gas, or geothermal leases on federal land, and would be transferable. H.R. 1659 provides that credits accepted by the Secretary of the Interior for such lease payments be considered as money received for the purpose of calculating payments to states.

Estimated cost to the federal government: The estimated budgetary impact of H.R. 1659 is shown in the following table. The costs of this legislation fall within budget functions 300 (natural resources and environment) and 800 (general government).

	By Fiscal Year, in Millions of Dollars				
	1999	2000	2001	2002	2003
Direct spending (including offsetting receipts)					
Spending Under Current Law:					
Estimated Budget Authority	0	(a)	(a)	(a)	(a)
Estimated Outlays	0	(a)	(a)	(a)	(a)
Proposed Changes:					
Estimated Budget Authority	10	(b)	(b)	(b)	(b)
Estimated Outlays	10	(b)	(b)	(b)	(b)
Spending Under H.R. 1659:					
Estimated Budget Authority	10	0	0	0	0
Estimated Outlays	10	0	0	0	0

^a Costs less than \$500,000.

^b Savings less than \$500,000.

Note: Implementing H.R. 1659 also would increase discretionary spending in 1999, but we estimate the cost would be insignificant.

Basis of estimate: CBO estimates that enacting H.R. 1659 would result in a net increase in direct spending of about \$10 million over the 1999–2003 period. We estimate that any increase in spending subject to appropriation would be insignificant.

Direct spending: Under current law, the Forest Service has appraised the subsurface interests based on current market conditions (rather than on their value in 1982, when the monument was created) and estimates them to have a fair market value ranging from about \$2 million to about \$4 million. CBO assumes that, under current law, the federal government would likely acquire these interests through an exchange in which the private parties would obtain the rights to other federal property of equal value. From a budgetary perspective, such an exchange would result in a loss of offsetting receipts from royalties and rental payments that otherwise would have been collected from leasing the federal interests offered in the exchange. Such income usually represents only

a fraction of the market value, and is collected over the life of the project, which can span 10 years or more. We estimate that lost income to the government under current law would total less than \$1 million over the 1999–2003 period, net of payments to states.

Under this bill, the federal government would award monetary credits, which are equivalent to cash, for the full market value of the property. CBO estimates that, by specifying that the value for the interests be determined as of 1982 (and adjusted for inflation), H.R. 1659 would raise the cost of the property to be acquired. Based on a range of estimated 1982 values from the private interest holders, and adjusted for inflation as provided in the bill, CBO estimates that the private interest holders would receive monetary credits valued at about \$10 million.

The value of monetary credits counts as direct spending in the year they are issued and as receipts in the years in which they are redeemed. If the credits displace cash payments that otherwise would have been received by the government, the use of the credits results in a corresponding loss of receipts. For the purposes of this estimate, we assume that the credits would be issued in fiscal year 1999 and redeemed within five years. CBO estimates that such credits would displace an equal amount of cash payments that private parties otherwise would have made for federal leases. Hence, we estimate that implementing this bill would increase direct spending by \$10 million in 1999 and would have no significant budgetary impact in subsequent years.

Spending subject to appropriation: H.R. 1659 provides that the Secretary of the Interior pay for any new appraisal. Based on information from the Forest Service, CBO estimates that conducting a reappraisal would cost less than \$50,000 in fiscal year 1999.

Pay-as-you-go considerations. Section 252 of the Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted. CBO estimates that enacting H.R. 1659 would result in a net increase in direct spending totaling about \$10 million over the 1999–2008 period.

[By Fiscal Year, in Millions of Dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Changes in outlays	0	10	0	0	0	0	0	0	0	0	0
Changes in receipts											Not applicable

Intergovernmental and private-sector: H.R. 1659 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Previous CBO estimate: On June 5, 1998, CBO prepared a cost estimate for S. 638, the Mount St. Helens National Volcanic Monument Completion Act, as ordered reported by the Senate Committee on Energy and Natural Resources on May 13, 1998. This version of H.R. 1659 is identical to that bill, and the estimated costs are the same.

Estimate prepared by: Victoria V. Heid.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 1659 contains no unfunded mandates.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF AUGUST 26, 1982

AN ACT To designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes

* * * * *

ACQUISITION

SEC. 3. (a) The Secretary shall acquire all lands and interests in lands within the boundaries of the Monument by donation, exchange in accordance with this Act or other provisions of law, or purchase with donated or appropriated funds, except as provided in subsection (c) [and except that the Secretary may acquire mineral and geothermal interests only by exchange. It is the sense of the Congress that in the case of mineral and geothermal interests such exchanges should be completed within one year after the date of enactment of this Act]. Any lands owned by the State of Washington or any political subdivision thereof may be acquired only by exchange. Those mining claims in the Green River-Polar Star area shall not be acquired without the consent of the owner.

* * * * *

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

(1) *DEFINITION OF HOLDER.*—*In this subsection, the term “holder” means a company, or its successor, referred to in subsection (c).*

(2) *IN GENERAL.*—*Within the period described in paragraph (7), the Secretary of the Interior shall acquire by exchange the mineral and geothermal interests in the Monument of each holder.*

(3) *MONETARY CREDITS.*—

(A) *ISSUANCE.*—*In exchange for the mineral and geothermal interests acquired by the Secretary of the Interior from a holder under paragraph (2), the Secretary of the Interior shall issue to the holder monetary credits that may be exercised by the holder for payment of—*

(i) not more than 50 percent of the bonus or other payments made by successful bidders in any sales of mineral, oil, gas, or geothermal leases under the Mineral Leasing Act (30 U.S.C. 181 et seq.), the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or

the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.); or

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

(B) VALUE OF CREDITS.—The credits issued under subparagraph (A) shall equal the fair market value of all mineral and geothermal interests conveyed in the exchange as determined under paragraph (4).

(C) ACCEPTANCE OF CREDITS.—The Secretary of the Interior shall accept credits issued under subparagraph (A) in the same manner as cash for the payments described in subparagraph (A). The use and exercise of the credits shall be subject to the laws (including regulations) governing such payments, to the extent the laws are consistent with this subsection.

(D) TREATMENT OF CREDITS FOR DISTRIBUTION TO STATES.—All amounts in the form of credits accepted by the Secretary of the Interior under subparagraph (C) for the payments described in subparagraph (A) shall be considered to be money received for the purpose of section 35 of the Mineral Leasing Act (30 U.S.C. 191) and section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019).

(4) VALUATION OF INTERESTS.—

(A) IN GENERAL.—Not later than 120 days after the date of enactment of this subsection, the mineral and geothermal interests to be conveyed by each holder in the exchanges required by paragraph (2) shall be valued by one of the following methods, as selected by the Secretary of the Interior:

(i) USE OF APPRAISAL REPORT.—The 1982 value established by the report of the third party appraisal completed on September 11, 1991, shall be adjusted to reflect changes in the consumer price index for all urban consumers published by the Department of Labor as of the date on which the exchange is to be consummated pursuant to paragraph (7), or such other value as shall be mutually agreed to by the Secretary of the Interior and the holders not later than 30 days after the date of enactment of this subsection.

(ii) NEW APPRAISAL.—

(I) SELECTION OF APPRAISER.—Not later than 30 days after the date of enactment of this subsection, the Secretary of the Interior and the holders shall mutually agree on the selection of a qualified appraiser to conduct an appraisal of the mineral and geothermal interests.

(II) NO AGREEMENT ON APPRAISER.—If no appraiser is mutually agreed to under subclause (I), not later than 60 days after the date of enactment of this subsection—

(aa) the Secretary of the Interior and the holders shall each designate a qualified appraiser; and

(bb) the two designated appraisers shall select a third qualified appraiser to perform the appraisal with the advice and assistance of the designated appraisers and in accordance with the instructions that were mutually agreed on for the September 11, 1991, third part appraisal.

(III) DATE OF VALUATION.—The value of the mineral and geothermal interests to be conveyed by each holder shall be calculated as of August 26, 1982, adjusted to reflect changes in the consumer price index for all urban consumers published by the Department of Labor as of the date on which the exchange is to be consummated pursuant to paragraph (7).

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

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

(C) FAILURE OF PROCESS.—If the Secretary of the Interior fails to make a determination under subparagraph (B) by the date that is 180 days after the date of enactment of this subsection or if any holder does not agree with the value determined by the Secretary of the Interior under subparagraph (B), one or more of the holders may petition the United States Court of Federal Claims for a determination of the value of the mineral and geothermal interests to be conveyed by the holders in accordance with this subsection. Subject to the right of appeal, a determination by the Court shall be binding for purposes of this subsection on all parties.

(5) EXCHANGE ACCOUNT.—

(A) IN GENERAL.—Notwithstanding any other provision of law, not later than 30 days after the completion of each exchange with a holder required by this subsection, the Secretary of the Interior shall establish, with the Minerals Management Service of the Department of the Interior, an exchange account for the holder for monetary credits described in paragraph (3).

(B) INITIAL BALANCE.—The initial balance of credits in each holder's account shall be equal to the value as determined under paragraph (4) of the mineral and geothermal interests conveyed by the holder in the exchange.

(C) USE OF CREDITS.—The balance of credits in a holder's account shall be available to the holder or its assigns for the purposes of paragraph (3). The Secretary of the Interior

shall adjust the balance of credits in the account to reflect payments made pursuant to paragraph (3).

(D) TRANSFER OF CREDITS.—

(i) **IN GENERAL.**—A holder may transfer or sell any credits in the holder's account to another person.

(ii) **USE OF TRANSFERRED CREDITS.**—Credits transferred under clause (i) may be used in accordance with this subsection only by a person that is qualified to bid on, or that holds, a mineral, oil, or gas lease under the Mineral Leasing Act (30 U.S.C. 181 et seq.), the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

(iii) **NOTIFICATION.**—A holder shall notify the Secretary of the Interior of any transfer or sale under this subparagraph promptly after the transfer or sale.

(E) TIME LIMIT ON USE OF CREDITS.—On the date that is 5 years after an account is created under subparagraph (A), the Secretary of the Interior shall terminate the account and any remaining credits in the account shall become unusable.

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

(7) COMPLETION OF EXCHANGES.—The Secretary of the Interior shall complete the exchanges under paragraph (2) not later than 180 days after the date of enactment of this subsection or as soon as practicable after completion of the process described in paragraph (4)(C).

