

106TH CONGRESS
2D SESSION

S. 2588

To assist the economic development of the Ute Indian Tribe by authorizing the transfer to the Tribe of Oil Shale Reserve Numbered 2, to protect the Colorado River by providing for the removal of the tailings from the Atlas uranium milling site near Moab, Utah, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 18, 2000

Mr. BENNETT introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To assist the economic development of the Ute Indian Tribe by authorizing the transfer to the Tribe of Oil Shale Reserve Numbered 2, to protect the Colorado River by providing for the removal of the tailings from the Atlas uranium milling site near Moab, Utah, 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 “Ute-Moab Land Res-
5 toration Act”.

1 **SEC. 2. TRANSFER OF OIL SHALE RESERVE.**

2 Section 3405 of the Strom Thurmond National De-
 3 fense Authorization Act for Fiscal Year 1999 (10 U.S.C.
 4 7420 note; Public Law 105–261) is amended to read as
 5 follows:

6 **“SEC. 3405. TRANSFER OF OIL SHALE RESERVE NUMBERED**

7 **2.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) MAP.—The term “map” means the map
 10 entitled ‘Boundary Map,’, numbered ____
 11 and dated _____, to be kept on file and available
 12 for public inspection in the offices of the Depart-
 13 ment of the Interior.

14 “(2) MOAB SITE.—The term ‘Moab site’ means
 15 the Moab uranium milling site located approximately
 16 3 miles northwest of Moab, Utah, and identified in
 17 the Final Environmental Impact Statement issued
 18 by the Nuclear Regulatory Commission in March
 19 1996, in conjunction with Source Material License
 20 No. SUA 917.

21 “(3) NOSR-2.—The term ‘NOSR-2’ means Oil
 22 Shale Reserve Numbered 2, as identified on a map
 23 on file in the Office of the Secretary of the Interior.

24 “(4) TRIBE.—The term ‘Tribe’ means the Ute
 25 Indian Tribe of the Uintah and Ouray Indian Res-
 26 ervation.

1 “(b) CONVEYANCE.—

2 “(1) IN GENERAL.—Except as provided in para-
3 graph (2), the United States conveys to the Tribe,
4 subject to valid existing rights in effect on the day
5 before the date of enactment of this section, all Fed-
6 eral land within the exterior boundaries of NOSR-
7 2 in fee simple (including surface and mineral
8 rights).

9 “(2) RESERVATIONS.—The conveyance under
10 paragraph (1) shall not include the following res-
11 ervations of the United States:

12 “(A) A 9 percent royalty interest in the
13 value of any oil, gas, other hydrocarbons, and
14 all other minerals from the conveyed land that
15 are produced, saved, and sold, the payments for
16 which shall be made by the Tribe or its des-
17 ignee to the Secretary of Energy during the pe-
18 riod that the oil, gas, hydrocarbons, or minerals
19 are being produced, saved, sold, or extracted.

20 “(B) The portion of the bed of Green
21 River contained entirely within NOSR-2, as de-
22 picted on the map.

23 “(C) The land (including surface and min-
24 eral rights) to the west of the Green River with-
25 in NOSR-2, as depicted on the map.

1 “(D) A ¼ mile scenic easement on the
2 east side of the Green River within NOSR–2.

3 “(3) CONDITIONS.—

4 “(A) MANAGEMENT AUTHORITY.—On com-
5 pletion of the conveyance under paragraph (1),
6 the United States relinquishes all management
7 authority over the conveyed land (including
8 tribal activities conducted on the land).

9 “(B) NO REVERSION.—The land conveyed
10 to the Tribe under this subsection shall not re-
11 vert to the United States for management in
12 trust status.

13 “(C) USE OF EASEMENT.—The reservation
14 of the easement under paragraph (2)(D) shall
15 not affect the right of the Tribe to obtain, use,
16 and maintain access to, the Green River
17 through the use of the road within the ease-
18 ment, as depicted on the map.

19 “(c) WITHDRAWALS.—All withdrawals in effect on
20 NOSR–2 on the date of enactment of this section are re-
21 voked.

22 “(d) ADMINISTRATION OF RESERVED LAND, INTER-
23 ESTS IN LAND.—

24 “(1) IN GENERAL.—The Secretary shall admin-
25 ister the land and interests in land reserved from

1 conveyance under subparagraphs (B) and (C) of
2 subsection (b)(2) in accordance with the Federal
3 Land Policy and Management Act of 1976 (43
4 U.S.C. 1701 et seq.).

5 “(2) MANAGEMENT PLAN.—Not later than 3
6 years after the date of enactment of this section, the
7 Secretary shall submit to Congress a land use plan
8 for the management of the land and interests in
9 land referred to in paragraph (1).

10 “(3) AUTHORIZATION OF APPROPRIATIONS.—
11 There are authorized to be appropriated to the Sec-
12 retary such sums as are necessary to carry out this
13 subsection.

14 “(e) ROYALTY.—

15 “(1) PAYMENT OF ROYALTY.—

16 “(A) IN GENERAL.—The royalty interest
17 reserved from conveyance in subsection
18 (b)(2)(A) that is required to be paid by the
19 Tribe shall not include any development, pro-
20 duction, marketing, and operating expenses.

21 “(B) FEDERAL TAX RESPONSIBILITY.—
22 The United States shall bear responsibility for
23 and pay—

24 “(i) gross production taxes;

25 “(ii) pipeline taxes; and

1 “(iii) allocation taxes assessed against
2 the gross production.

3 “(2) REPORT.—The Tribe shall submit to the
4 Secretary of Energy and to Congress an annual re-
5 port on resource development and other activities of
6 the Tribe concerning the conveyance under sub-
7 section (b).

8 “(3) FINANCIAL AUDIT.—

9 “(A) IN GENERAL.—Not later than 5 years
10 after the date of enactment of this section, and
11 every 5 years thereafter, the Tribe shall obtain
12 an audit of all resource development activities
13 of the Tribe concerning the conveyance under
14 subsection (b), as provided under chapter 75 of
15 title 31, United States Code.

16 “(B) INCLUSION OF RESULTS.—The re-
17 sults of each audit under this paragraph shall
18 be included in the next annual report submitted
19 after the date of completion of the audit.

20 “(f) RIVER MANAGEMENT.—

21 “(1) IN GENERAL.—The Tribe shall manage,
22 under Tribal jurisdiction and in accordance with or-
23 dinances adopted by the Tribe, land of the Tribe
24 that is adjacent to, and within $\frac{1}{4}$ mile of, the Green
25 River in a manner that—

1 “(A) maintains the protected status of the
2 land; and

3 “(B) is consistent with the government-to-
4 government agreement and in the memorandum
5 of understanding dated February 11, 2000, as
6 agreed to by the Tribe and the Secretary.

7 “(2) NO MANAGEMENT RESTRICTIONS.—An or-
8 dinance referred to in paragraph (1) shall not im-
9 pair, limit, or otherwise restrict the management
10 and use of any land that is not owned, controlled,
11 or subject to the jurisdiction of the Tribe.

12 “(3) REPEAL OR AMENDMENT.—An ordinance
13 adopted by the Tribe and referenced in the govern-
14 ment-to-government agreement may not be repealed
15 or amended without the written approval of—

16 “(A) the Tribe; and

17 “(B) the Secretary.

18 “(g) PLANT SPECIES.—

19 “(1) IN GENERAL.—In accordance with a gov-
20 ernment-to-government agreement between the Tribe
21 and the Secretary, in a manner consistent with levels
22 of legal protection in effect on the date of enactment
23 of this section, the Tribe shall protect, under ordi-
24 nances adopted by the Tribe, any plant species that
25 is—

1 “(A) listed as an endangered species or
2 threatened species under section 4 of the En-
3 dangered Species Act of 1973 (16 U.S.C.
4 1533); and

5 “(B) located or found on the NOSR–2
6 land conveyed to the Tribe.

7 “(2) TRIBAL JURISDICTION.—The protection
8 described in paragraph (1) shall be performed solely
9 under tribal jurisdiction

10 “(h) HORSES.—

11 “(1) IN GENERAL.—The Tribe shall manage,
12 protect, and assert control over any horse not owned
13 by the Tribe or tribal members that is located or
14 found on the NOSR–2 land conveyed to the Tribe in
15 a manner that is consistent with Federal law gov-
16 erning the management, protection, and control of
17 horses in effect on the date of enactment of this sec-
18 tion.

19 “(2) TRIBAL JURISDICTION.—The management,
20 control, and protection of horses described in para-
21 graph (1) shall be performed solely—

22 “(A) under tribal jurisdiction; and

23 “(B) in accordance with a government-to-
24 government agreement between the Tribe and
25 the Secretary.

1 “(i) REMEDIAL ACTION AT MOAB SITE.—

2 “(1) IN GENERAL.—Not later than 1 year after
3 the date of enactment of this subsection, the Sec-
4 retary of Energy shall prepare a plan for the com-
5 mencement, not later than 1 year after the date of
6 completion of the plan, of remedial action (including
7 groundwater restoration) at the Moab site in accord-
8 ance with section 102(a) of the Uranium Mill
9 Tailings Radiation Control Act of 1978 (42 U.S.C.
10 7912(a)).

11 “(2) LIMIT ON EXPENDITURES.—The Secretary
12 shall limit the amounts expended in carrying out the
13 remedial action under paragraph (1) to—

14 “(A) amounts specifically appropriated for
15 the remedial action in an Act of appropriation;
16 and

17 “(B) other amounts made available for the
18 remedial action under this subsection.

19 “(3) RETENTION OF ROYALTIES.—

20 “(A) IN GENERAL.—The Secretary of En-
21 ergy shall retain the amounts received as royalti-
22 ties under subsection (e)(1).

23 “(B) AVAILABILITY.—Amounts referred to
24 in subparagraph (A) shall be available, without

1 further Act of appropriation, to carry out the
2 remedial action under paragraph (1).

3 “(C) EXCESS AMOUNTS.—On completion
4 of the remedial action under paragraph (1), all
5 remaining royalty amounts shall be deposited in
6 the General Fund of the Treasury.

7 “(D) AUTHORIZATION OF APPROPRIA-
8 TIONS.—

9 “(i) IN GENERAL.—There are author-
10 ized to be appropriated to the Secretary of
11 Energy to carry out the remedial action
12 under paragraph (1) such sums as are nec-
13 essary.

14 “(ii) CONTINUATION OF NRC TRUSTEE
15 REMEDIATION ACTIVITIES.—After the date
16 of enactment of this section and until such
17 date as funds are made available under
18 clause (i), the Secretary, using funds avail-
19 able to the Secretary that are not other-
20 wise appropriated, shall carry out—

21 “(I) this subsection; and

22 “(II) any remediation activity
23 being carried out at the Moab site by
24 the trustee appointed by the Nuclear
25 Regulatory Commission for the Moab

1 site on the date of enactment of this
2 section.

3 “(4) SALE OF MOAB SITE.—

4 “(A) IN GENERAL.—If the Moab site is
5 sold after the date on which the Secretary of
6 Energy completes the remedial action under
7 paragraph (1), the seller shall pay to the Sec-
8 retary of Energy, for deposit in the miscella-
9 neous receipts account of the Treasury, the por-
10 tion of the sale price that the Secretary deter-
11 mines resulted from the enhancement of the
12 value of the Moab site that is attributable to
13 the completion of the remedial action, as deter-
14 mined in accordance with subparagraph (B).

15 “(B) DETERMINATION OF ENHANCED
16 VALUE.—The enhanced value of the Moab site
17 referred to in subparagraph (A) shall be equal
18 to the difference between—

19 “(i) the fair market value of the Moab
20 site on the date of enactment of this sec-
21 tion, based on information available on
22 that date; and

23 “(ii) the fair market value of the
24 Moab site, as appraised on completion of
25 the remedial action.”.

1 **SEC. 3. URANIUM MILL TAILINGS.**

2 Section 102(a) of the Uranium Mill Tailings Radi-
3 ation Control Act of 1978 (42 U.S.C. 7912(a)) is amended
4 by inserting after paragraph (3) the following:

5 “(4) DESIGNATION AS PROCESSING SITE.—

6 “(A) IN GENERAL.—Notwithstanding any
7 other provision of law, the Moab uranium mill-
8 ing site (referred to in this paragraph as the
9 ‘Moab Site’) located approximately 3 miles
10 northwest of Moab, Utah, and identified in the
11 Final Environmental Impact Statement issued
12 by the Nuclear Regulatory Commission in
13 March 1996, in conjunction with Source Mate-
14 rial License No. SUA 917, is designated as a
15 processing site.

16 “(B) APPLICABILITY.—This title applies to
17 the Moab Site in the same manner and to the
18 same extent as to other processing sites des-
19 ignated under this subsection, except that—

20 “(i) sections 103, 107(a), 112(a), and
21 115(a) of this title shall not apply;

22 “(ii) a reference in this title to the
23 date of the enactment of this Act shall be
24 treated as a reference to the date of enact-
25 ment of this paragraph; and

1 “(iii) the Secretary, subject to the
2 availability of appropriations and without
3 regard to section 104(b), shall conduct re-
4 mediation at the Moab site in a safe and
5 environmentally sound manner,
6 including—

7 “(I) groundwater restoration;

8 and

9 “(II) the removal, to at a site in
10 the State of Utah, for permanent dis-
11 position and any necessary stabiliza-
12 tion, of residual radioactive material
13 and other contaminated material from
14 the Moab Site and the floodplain of
15 the Colorado River.”.

16 **SEC. 4. CONFORMING AMENDMENT.**

17 Section 3406 of the Strom Thurmond National De-
18 fense Authorization Act for Fiscal Year 1999 (10 U.S.C.
19 7420 note) is amended by inserting after subsection (e)
20 the following:

21 “(f) OIL SHALE RESERVE NUMBERED 2.—This sec-
22 tion does not apply to the transfer of Oil Shale Reserve
23 Numbered 2 under section 3405.”.

○