

Calendar No. 532

115TH CONGRESS
2D SESSION

S. 436

To authorize the Secretary of the Interior to retire coal preference right lease applications for which the Secretary has made an affirmative commercial quantities determination, to substitute certain land selections of the Navajo Nation, to designate certain wilderness areas, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2017

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

JULY 30, 2018

Reported by Ms. MURKOWSKI, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To authorize the Secretary of the Interior to retire coal preference right lease applications for which the Secretary has made an affirmative commercial quantities determination, to substitute certain land selections of the Navajo Nation, to designate certain wilderness areas, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “San Juan County Set-
3 tlement Implementation Act”.

4 **SEC. 2. EXCHANGE OF COAL PREFERENCE RIGHT LEASE**
5 **APPLICATIONS.**

6 (a) DEFINITIONS.—In this section:

7 (1) BIDDING RIGHT.—The term “bidding right”
8 means an appropriate legal instrument or other writ-
9 ten documentation, including an entry in an account
10 managed by the Secretary, issued or created under
11 subpart 3435 of title 43, Code of Federal Regula-
12 tions, that may be used—

13 (A) in lieu of a monetary payment for 50
14 percent of a bonus bid for a coal lease sale
15 under the Mineral Leasing Act (30 U.S.C. 181
16 et seq.); or

17 (B) as a monetary credit against 50 per-
18 cent of any rental or royalty payments due
19 under any Federal coal lease.

20 (2) SECRETARY.—The term “Secretary” means
21 the Secretary of the Interior.

22 (b) USE OF BIDDING RIGHT.—

23 (1) IN GENERAL.—If the Secretary retires a
24 coal preference right lease application under the
25 Mineral Leasing Act (30 U.S.C. 181 et seq.) by
26 issuing a bidding right in exchange for the relin-

1 quishment of the coal preference right lease applica-
 2 tion, the bidding right subsequently may be used in
 3 lieu of 50 percent of the amount owed for any mone-
 4 tary payment of—

5 (A) a bonus in a coal lease sale; or

6 (B) rental or royalty under a Federal coal
 7 lease.

8 (2) PAYMENT CALCULATION.—

9 (A) IN GENERAL.—The Secretary shall cal-
 10 culate a payment of amounts owed to a relevant
 11 State under section 35(a) of the Mineral Leas-
 12 ing Act (30 U.S.C. 191(a)) based on the com-
 13 bined value of the bidding rights and amounts
 14 received.

15 (B) AMOUNTS RECEIVED.—Except as pro-
 16 vided in this subsection, for purposes of calcu-
 17 lating the payment of amounts owed to a rel-
 18 evant State under subparagraph (A) only, a
 19 bidding right shall be considered amounts re-
 20 ceived.

21 (c) SOURCE OF PAYMENTS.—The Secretary shall
 22 make payments to the relevant State under subsection (b)
 23 from monetary payments received by the Secretary when
 24 bidding rights are exercised under this Act.

1 (d) TREATMENT OF PAYMENTS.—A payment to a
 2 State under this section shall be treated as a payment
 3 under section 35(a) of the Mineral Leasing Act (30 U.S.C.
 4 191(a)).

5 (e) TRANSFERABILITY; LIMITATION.—

6 (1) TRANSFERABILITY.—A bidding right issued
 7 for a coal preference right lease application under
 8 the Mineral Leasing Act (30 U.S.C. 181 et seq.)
 9 shall be fully transferable to any other person.

10 (2) NOTIFICATION OF SECRETARY.—A person
 11 who transfers a bidding right shall notify the Sec-
 12 retary of the transfer by any method determined to
 13 be appropriate by the Secretary.

14 (3) EFFECTIVE PERIOD.—

15 (A) IN GENERAL.—A bidding right issued
 16 under the Mineral Leasing Act (30 U.S.C. 181
 17 et seq.) shall terminate on the expiration of the
 18 7-year period beginning on the date the bidding
 19 right is issued.

20 (B) TOLLING OF PERIOD.—The 7-year pe-
 21 riod described in subparagraph (A) shall be
 22 tolled during any period in which exercise of the
 23 bidding right is precluded by temporary injunc-
 24 tive relief granted under, or administrative, leg-

1 islative, or judicial suspension of, the Federal
2 coal leasing program.

3 ~~(f) DEADLINE.—If an existing settlement of a coal~~

4 (f) *DEADLINE.—*

5 (1) *IN GENERAL.—If an existing settlement of a*
6 *coal* preference right lease application has not been
7 implemented as of the date of enactment of this Act,
8 not later than 180 days after that date of enact-
9 ment, the Secretary shall complete the bidding
10 rights valuation process in accordance with the
11 terms of the settlement.

12 (2) *DATE OF VALUATION.—For purposes of the*
13 *valuation process under paragraph (1), the market*
14 *price of coal shall be determined as of the date of the*
15 *settlement.*

16 **SEC. 3. CERTAIN LAND SELECTIONS OF THE NAVAJO NA-**
17 **TION.**

18 (a) CANCELLATION OF CERTAIN SELECTIONS.—The
19 land selections made by the Navajo Nation pursuant to
20 Public Law 93–531 (commonly known as the “Navajo-
21 Hopi Land Settlement Act of 1974”) (25 U.S.C. 640d et
22 seq.) that are depicted on the map entitled “Navajo-Hopi
23 Land Settlement Act Selected Lands” and dated April 2,
24 2015, are cancelled.

25 (b) AUTHORIZATION FOR NEW SELECTION.—

1 (1) IN GENERAL.—Subject to paragraphs (2),
2 (3), and (4) and subsection (c), the Navajo Nation
3 may make new land selections in accordance with
4 the Act referred to in subsection (a) to replace the
5 land selections cancelled under that subsection.

6 (2) ACREAGE CAP.—The total acreage of land
7 selected under paragraph (1) shall not exceed
8 15,000 acres of land.

9 (3) EXCLUSIONS.—The following land shall not
10 be eligible for selection under paragraph (1):

11 (A) Land within a unit of the National
12 Landscape Conservation System.

13 (B) Land within—

14 (i) the Glade Run Recreation Area;

15 (ii) the Fossil Forest Research Nat-
16 ural Area; or

17 (iii) a special management area or
18 area of critical environmental concern iden-
19 tified in a land use plan developed under
20 section 202 of the Federal Land Policy
21 and Management Act of 1976 (43 U.S.C.
22 1712) that is in effect on the date of en-
23 actment of this Act.

24 (C) Any land subject to a lease or contract
25 under the Mineral Leasing Act (30 U.S.C. 181

et seq.) or the Act of July 31, 1947 (commonly known as the “Materials Act of 1947”) (30 U.S.C. 601 et seq.) as of the date of the selection.

(D) Land identified as “Parcels Excluded from Selection” on the map entitled “Parcels excluded for selection under the San Juan County Settlement Implementation Act” and dated May 11, 2018.

(4) DEADLINE.—Not later than 7 years after the date of enactment of this Act, the Navajo Nation shall make all selections under paragraph (1).

(5) WITHDRAWAL.—Any land selected by the Navajo Nation under paragraph (1) shall be withdrawn from disposal, leasing, and development until the date on which the selected land is placed into trust for the Navajo Nation.

(c) EQUAL VALUE.—

(1) IN GENERAL.—Notwithstanding the acreage limitation in the second proviso of section 11(c) of Public Law 93–531 (commonly known as the “Navajo-Hopi Land Settlement Act of 1974”) (25 U.S.C. 640d–10(c)) and subject to subsection (b)(2), the value of the land selected under subsection (b)(1) and the land subject to selections cancellation under

subsection (a) shall be equal, based on appraisals conducted under paragraph (2).

(2) APPRAISALS.—

(A) IN GENERAL.—The value of the land selected under subsection (b)(1) and the land subject to selections cancelled under subsection (a) shall be determined by appraisals conducted in accordance with—

(i) the Uniform Appraisal Standards for Federal Land Acquisitions; and

(ii) the Uniform Standards of Professional Appraisal Practice.

(B) TIMING.—

(i) LAND SUBJECT TO SELECTIONS CANCELLED.—Not later than 18 months after the date of enactment of this Act, the appraisal under subparagraph (A) of the land subject to selections cancelled under subsection (a) shall be completed.

(ii) NEW SELECTIONS.—The appraisals under subparagraph (A) of the land selected under subsection (b)(1) shall be completed as the Navajo Nation finalizes those land selections.

1 (d) BOUNDARY.—For purposes of this section and
 2 the Act referred to in subsection (a), the present boundary
 3 of the Navajo Reservation is depicted on the map entitled
 4 “Navajo Nation Boundary” and dated November 16,
 5 2015.

6 **SEC. 4. DESIGNATION OF AH-SHI-SLE-PAH WILDERNESS.**

7 (a) IN GENERAL.—In accordance with the Wilderness
 8 Act (16 U.S.C. 1131 et seq.), the approximately 7,242
 9 acres of land as generally depicted on the map entitled
 10 “San Juan County Wilderness Designations” and dated
 11 April 2, 2015, is designated as wilderness and as a compo-
 12 nent of the National Wilderness Preservation System,
 13 which shall be known as the “Ah-shi-sle-pah Wilderness”
 14 (referred to in this section as the “Wilderness”).

15 (b) MANAGEMENT.—

16 (1) IN GENERAL.—Subject to valid existing
 17 rights, the Wilderness shall be administered by the
 18 Director of the Bureau of Land Management in ac-
 19 cordance with this section and the Wilderness Act
 20 (16 U.S.C. 1131 et seq.), except that any reference
 21 in that Act to the effective date of that Act shall be
 22 considered to be a reference to the date of enact-
 23 ment of this Act.

24 (2) ADJACENT MANAGEMENT.—

1 (A) IN GENERAL.—Congress does not in-
2 tend for the designation of the Wilderness to
3 create a protective perimeter or buffer zone
4 around the Wilderness.

5 (B) NONWILDERNESS ACTIVITIES.—The
6 fact that nonwilderness activities or uses can be
7 seen or heard from areas within the Wilderness
8 shall not preclude the conduct of the activities
9 or uses outside the boundary of the Wilderness.

10 (3) INCORPORATION OF ACQUIRED LAND AND
11 INTERESTS IN LAND.—Any land or interest in land
12 that is within the boundary of the Wilderness that
13 is acquired by the United States shall—

14 (A) become part of the Wilderness; and

15 (B) be managed in accordance with—

16 (i) the Wilderness Act (16 U.S.C.
17 1131 et seq.);

18 (ii) this section; and

19 (iii) any other applicable laws.

20 (4) GRAZING.—Grazing of livestock in the Wil-
21 derness, where established before the date of enact-
22 ment of this Act, shall be allowed to continue in ac-
23 cordance with—

24 (A) section 4(d)(4) of the Wilderness Act
25 (16 U.S.C. 1133(d)(4)); and

1 (B) the guidelines set forth in the report of
2 the Committee on Interior and Insular Affairs
3 of the House of Representatives accompanying
4 H.R. 5487 of the 96th Congress (H. Rept. 96–
5 617).

6 (c) RELEASE OF WILDERNESS STUDY AREAS.—Con-
7 gress finds that, for the purposes of section 603(c) of the
8 Federal Land Policy and Management Act of 1976 (43
9 U.S.C. 1782(c)), the land within the Ah-shi-sle-pah Wil-
10 derness Study Area not designated as wilderness by this
11 section has been adequately studied for wilderness des-
12 ignation and is no longer subject to section 603(c) of the
13 Federal Land Policy and Management Act of 1976 (43
14 U.S.C. 1782(c)).

15 **SEC. 5. EXPANSION OF BISTI/DE-NA-ZIN WILDERNESS.**

16 (a) IN GENERAL.—There is designated as wilderness
17 and as a component of the National Wilderness Preserva-
18 tion System certain Federal land comprising approxi-
19 mately 2,250 acres, as generally depicted on the map enti-
20 tled “San Juan County Wilderness Designations” and
21 dated April 2, 2015, which is incorporated in and shall
22 be considered to be a part of the Bisti/De-Na-Zin Wilder-
23 ness.

24 (b) ADMINISTRATION.—Subject to valid existing
25 rights, the land designated as wilderness by subsection (a)

1 shall be administered by the Director of the Bureau of
2 Land Management (referred to in this section as the “Di-
3 rector”), in accordance with—

4 (1) the Wilderness Act (16 U.S.C. 1131 et
5 seq.), except that any reference in that Act to the
6 effective date of that Act shall be considered to be
7 a reference to the date of enactment of this Act; and

8 (2) the San Juan Basin Wilderness Protection
9 Act of 1984 (Public Law 98–603; 98 Stat. 3155;
10 110 Stat. 4211).

11 (c) ADJACENT MANAGEMENT.—

12 (1) IN GENERAL.—Congress does not intend for
13 the designation of the land as wilderness by sub-
14 section (a) to create a protective perimeter or buffer
15 zone around that land.

16 (2) NONWILDERNESS ACTIVITIES.—The fact
17 that nonwilderness activities or uses can be seen or
18 heard from areas within the land designated as wil-
19 derness by subsection (a) shall not preclude the con-
20 duct of the activities or uses outside the boundary
21 of that land.

22 (d) INCORPORATION OF ACQUIRED LAND AND IN-
23 TERESTS IN LAND.—Any land or interest in land that is
24 within the boundary of the land designated as wilderness

1 by subsection (a) that is acquired by the United States
2 shall—

3 (1) become part of the Bisti/De-Na-Zin Wilder-
4 ness; and

5 (2) be managed in accordance with—

6 (A) the Wilderness Act (16 U.S.C. 1131 et
7 seq.);

8 (B) the San Juan Basin Wilderness Pro-
9 tection Act of 1984 (Public Law 98–603; 98
10 Stat. 3155; 110 Stat. 4211);

11 (C) this section; and

12 (D) any other applicable laws.

13 (e) GRAZING.—Grazing of livestock in the land des-
14 ignated as wilderness by subsection (a), where established
15 before the date of enactment of this Act, shall be allowed
16 to continue in accordance with—

17 (1) section 4(d)(4) of the Wilderness Act (16
18 U.S.C. 1133(d)(4)); and

19 (2) the guidelines set forth in the report of the
20 Committee on Interior and Insular Affairs of the
21 House of Representatives accompanying H.R. 5487
22 of the 96th Congress (H. Rept. 96–617).

23 **SEC. 6. MAINTENANCE OF ROAD.**

24 *The Secretary of the Interior, acting through the Direc-*
25 *tor of the Bureau of Indian Affairs, shall ensure that BIA*

- 1 *Route 54 between I-40 and Alamo, New Mexico, is main-*
- 2 *tained in a condition that is safe for motorized use.*

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