

110TH CONGRESS
1ST SESSION

H. R. 4685

To establish the Minerals Reclamation Foundation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2007

Mr. PEARCE (for himself and Mr. UDALL of Colorado) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To establish the Minerals Reclamation Foundation, 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 “Minerals Reclamation
5 Foundation Establishment Act of 2007”.

6 **SEC. 2. ESTABLISHMENT OF MINERALS RECLAMATION**
7 **FOUNDATION.**

8 (a) IN GENERAL.—There is established the Minerals
9 Reclamation Foundation. The Foundation is a charitable
10 and nonprofit corporation and is not an agency or estab-
11 lishment of the United States.

1 (b) PURPOSE.—The purpose of the Foundation shall
2 be—

3 (1) to encourage, obtain, and use gifts, devises,
4 and bequests of real and personal property for aban-
5 doned mine lands projects that further the conserva-
6 tion of natural, scenic, historic, scientific, edu-
7 cational, wildlife habitat, or recreational resources;

8 (2) to foster compensation or approved and au-
9 thorized offsite mitigation for ongoing mining on
10 Federal lands, State lands, and split estate lands;
11 and

12 (3) to work with other persons, including foun-
13 dations, to foster wider public knowledge of issues
14 related to mineral resource extraction, reclamation,
15 and sustainable development, including minerals
16 education.

17 (c) STRATEGY.—The Foundation shall develop a
18 strategy to build partnerships with persons, including
19 foundations and government agencies, and play a catalytic
20 role that focuses on local action, to accomplish tangible
21 and lasting results in the effective reclamation of aban-
22 doned mine lands.

23 (d) GRANTS AND CONTRACTS.—The Foundation may
24 use gifts, devises, bequests, and matching funds from the
25 Secretary of the Interior under section 11(b) to make

1 grants and award contracts for a project described in sub-
2 section (b) that—

3 (1) is approved by the Board of the Founda-
4 tion;

5 (2) is consistent with the purpose of the Foun-
6 dation under subsection (b); and

7 (3) is in accordance with the strategy under
8 subsection (c).

9 (e) LIMITATION AND CONFLICTS OF INTEREST.—

10 (1) IN GENERAL.—The Foundation shall have
11 no power, other than as an insubstantial part of its
12 activities, to spend funds or engage in activities that
13 are not in furtherance of subsection (b).

14 (2) POLITICAL ACTIVITIES.—The Foundation
15 shall not participate or intervene in a political cam-
16 paign on behalf of any candidate for public office.

17 (3) CONFLICT OF INTERESTS.—No director, of-
18 ficer, or employee of the Foundation shall partici-
19 pate, directly or indirectly, in the consideration or
20 determination of any question before the Foundation
21 affecting—

22 (A) the financial interests of the director,
23 officer, or employee; or

1 (B) the interests of any corporation part-
2 nership, entity, or organization in which such
3 director, officer, or employee—

4 (i) is an officer, director, of trustee; or
5 (ii) has any direct or indirect financial
6 interest.

7 (f) LIMITATION ON ADMINISTRATIVE EXPENDI-
8 TURES.—Of the amount available to the Foundation for
9 expenditure each fiscal year, not more than 20 percent
10 may be used for administrative expenses.

11 **SEC. 3. BOARD OF DIRECTORS.**

12 (a) ESTABLISHMENT AND MEMBERSHIP.—

13 (1) IN GENERAL.—The Foundation shall have a
14 governing Board of Directors (in this Act referred to
15 as the “Board”), which shall consist of 15 Directors,
16 each of whom shall be a United States citizen.

17 (2) EDUCATION AND EXPERIENCE OF MEM-
18 BERS.—The members of the Board must be edu-
19 cated or have actual experience in minerals produc-
20 tion and reclamation of mine lands or mineral re-
21 source financing, law, or research. Not more than 3
22 members of the Board at any particular time may
23 be individuals admitted to engage in, and engaged
24 in, the practice of law in a State.

1 (3) REPRESENTATION OF DIVERSE AREAS OF
2 EXPERTISE.—To the extent practicable, members of
3 the Board shall represent diverse areas of expertise
4 relating to mining and mine reclamation.

5 (4) EX OFFICIO MEMBER.—The Director of the
6 Office of Surface Mining shall be an ex officio, non-
7 voting member of the Board.

8 (5) APPOINTMENT AND TERMS.—

9 (A) IN GENERAL.—Within one year after
10 the date of enactment of this Act, the Secretary
11 of the Interior shall appoint the Directors of
12 the Board. Thereafter the Secretary shall no
13 longer have such authority, and subsequent ap-
14 pointments shall be made by the Chairman with
15 the advice and consent of a majority of the
16 Board.

17 (B) TERMS, GENERALLY.—Except as pro-
18 vided in subparagraph (C), directors shall be
19 appointed for a term of 6 years.

20 (C) INITIAL APPOINTMENTS.—Of the
21 members initially appointed—

22 (i) one-third shall be appointed for a
23 term of 2 years; and

24 (ii) one-third shall be appointed for a
25 term of 4 years.

1 (D) VACANCIES.—A vacancy on the Board
2 shall be filled within 120 days after the occur-
3 rence of such vacancy, in the manner of which
4 the original appointment was made.

5 (E) LIMITATION.—No individual may serve
6 more than 12 consecutive years as a Director.

7 (6) REMOVAL.—If a Director misses three con-
8 secutive meetings of the Board, that individual may
9 be removed from the Board by a majority vote of the
10 Board of Directors and that vacancy filled in accord-
11 ance with this subsection.

12 (7) NON-FEDERAL STATUS.—Appointment as a
13 Director of the Board shall not constitute employ-
14 ment by, or the holding of an office of, the United
15 States for the purposes of any Federal law.

16 (b) CHAIRMAN.—The Chairman shall be elected by
17 the Board from its members. An individual shall serve for
18 a 2-year term as Chairman, and may be reelected to the
19 post during the individual's tenure as a Director.

20 (c) QUORUM.—A majority of the current voting mem-
21 bership of the Board shall constitute a quorum for the
22 transaction of business.

23 (d) MEETINGS.—The Board shall meet at the call of
24 the Chairman at least once each year.

1 (e) REIMBURSEMENT OF EXPENSES.—Voting mem-
2 bers of the Board shall serve without pay, but may be re-
3 imbursed for the actual and necessary traveling and sub-
4 sistence expenses incurred by them in the performance of
5 their duties for the Foundation. Such reimbursement may
6 not exceed such amount as would be authorized under sec-
7 tion 5703 of title 5, United States Code, for the payment
8 of expenses and allowances for individuals employed inter-
9 mittently in the Federal Government service.

10 (f) GENERAL POWERS.—The Board may complete
11 the organization of the Foundation by—

12 (1) appointing officers and employees (subject
13 to subsection (g)(1));

14 (2) adopting a constitution and bylaws con-
15 sistent with the purpose of the Foundation under
16 section 2(b) and the other provisions of section 2;
17 and

18 (3) undertaking other such acts as may be nec-
19 essary to function and to carry out this Act.

20 (g) OFFICERS AND EMPLOYEES.—Officers and em-
21 ployees of the Foundation—

22 (1) may not be appointed until the Foundation
23 has sufficient funds to pay for their services;

1 (2) shall be appointed without regard to the
2 provisions of title 5, United States Code, governing
3 appointment in the competitive service; and

4 (3) may be paid without regard to the provi-
5 sions of chapter 51 and subchapter III of chapter 53
6 of such title relating to classification and General
7 Schedule pay rates.

8 **SEC. 4. CORPORATE POWERS AND OBLIGATIONS.**

9 (a) IN GENERAL.—The Foundation—

10 (1) shall have perpetual succession;

11 (2) may conduct business throughout the sev-
12 eral States, territories, possessions of the United
13 States, and in Canada and Mexico;

14 (3) shall have an office in the metropolitan area
15 of the District of Columbia which shall at all times
16 maintain a designated agent in the District of Co-
17 lumbia to accept services of processes for the Foun-
18 dation;

19 (4) may maintain as many offices as deemed
20 necessary, including project offices, by the Board
21 outside of the metropolitan area of the District of
22 Columbia, including an office in Albuquerque, New
23 Mexico, or Denver, Colorado; and

1 (5) shall at all times maintain a designated
2 agent in the District of Columbia authorized to ac-
3 cept services of process for the Foundation.

4 (b) NOTICE AND SERVICE OF PROCESS.—The serving
5 of notice to, or service of process upon, the agent required
6 under subsection (a)(3), or mailed to the business address
7 of such agent, shall be deemed as service upon or notice
8 to the Foundation.

9 (c) SEAL.—The Foundation shall have an official seal
10 selected by the Board which shall be judicially noticed.

11 (d) POWERS.—

12 (1) IN GENERAL.—To carry out its purpose, the
13 Foundation shall have, in addition to powers other-
14 wise authorized under this Act, other than the power
15 to issue securities of pay dividends.

16 (2) INCLUDED POWERS.—The powers of the
17 Foundation under this subsection include the power
18 to—

19 (A) accept, receive, solicit, hold, admin-
20 ister, and use any gift, devise, or bequest, either
21 absolutely or in trust, of real or personal prop-
22 erty or any income therefrom or other interest
23 therein;

24 (B) unless otherwise required by the in-
25 strument of transfer by which the Foundation

1 acquires property, sell, donate, lease, invest, re-
2 invest, retain, or otherwise dispose of any prop-
3 erty or income therefrom;

4 (C) borrow money and issue bonds, debentures,
5 or other debt instruments;

6 (D) sue and be sued, and complain and de-
7 fend itself in any court of competent jurisdic-
8 tion (except that the Directors of the Board
9 shall not be personally liable, except for gross
10 negligence);

11 (E) enter into contracts or other arrange-
12 ments with public agencies, private organiza-
13 tions, and persons, and to make such payments
14 as may be necessary to carry out the purposes
15 thereof; and

16 (F) do any and all acts necessary and
17 proper to carry out the purposes of the Founda-
18 tion.

19 (e) ACQUISITION OF PROPERTY.—

20 (1) IN GENERAL.—In addition to its powers
21 under subsection (f), the Foundation may acquire,
22 hold, and dispose of lands, waters, or other interests
23 in real property by donation, gift, devise, purchase
24 or exchange.

1 (2) EXEMPTION FROM CONDEMNATION.—No
2 lands or waters, or interest therein, that are owned
3 by the Foundation and are determined by the Sec-
4 retary to be valuable for purposes established in this
5 Act shall be subject to condemnation by any State
6 or political subdivision, or any agent of instrumen-
7 tality thereof.

8 (f) DISSOLUTION.—If the Foundation is dissolved for
9 any reason, funds remaining in accounts of the Founda-
10 tion and all assets of the Foundation shall be donated to
11 the United States and available to the Secretary of the
12 Interior for use in reclamation of abandoned mine lands.

13 **SEC. 5. ADMINISTRATIVE SERVICES AND SUPPORT.**

14 (a) STARTUP FUNDS.—For the purposes of assisting
15 the Foundation in establishing an office and meeting ini-
16 tial administrative, project, and other startup expenses,
17 the Secretary may provide to the Foundation \$2,000,000
18 from funds appropriated under section 11(a) for each of
19 fiscal years 2008 and 2009. Such funds shall remain avail-
20 able to the Foundation until they are expended.

21 (b) ADMINISTRATIVE EXPENSES.—

22 (1) IN GENERAL.—The Secretary may provide
23 the Foundation use of the Department of the Inte-
24 rior personnel, facilities, and equipment, subject to

1 such limitations, terms, and conditions as the Sec-
2 retary shall establish.

3 (2) REIMBURSEMENT.—The Secretary.—

4 (A) may require the Foundation to reim-
5 burse the Secretary for the costs of providing
6 personnel, facilities, and equipment under this
7 subsection; and

8 (B) shall require such reimbursement be-
9 ginning upon the end of the 5-year period be-
10 ginning on the date of the enactment of this
11 Act.

12 **SEC. 6. AUDITS AND REPORT REQUIREMENT.**

13 (a) AUDITS.—For purposes of section 10101 of title
14 36, United States Code, the Foundation shall be treated
15 as a corporation in part B of subtitle II of such title.

16 (b) REPORT.—The Foundation shall, as soon as prac-
17 ticable after the end of each fiscal year, transmit to the
18 Committee on Natural Resources of the House of Rep-
19 resentatives and the Committee on Energy and Natural
20 Resources of the Senate a report of its proceedings and
21 activities during such fiscal year, including—

22 (1) a full and complete statement of its re-
23 ceipts, expenditures, and investments;

24 (2) a description of all acquisition and disposal
25 of real property by the Foundation; and

1 (3) a detailed statement of the recipient,
2 amount, and purpose of each grant made by the
3 Foundation.

4 **SEC. 7. RELIEF WITH RESPECT TO CERTAIN FOUNDATION**
5 **ACTS OR FAILURE TO ACT.**

6 The Attorney General of the United States may peti-
7 tion in the United States District Court for the District
8 of Columbia for such equitable relief as may be necessary
9 or appropriate if the Foundation—

10 (1) engages in, or threatens to engage in, any
11 act, practice, or policy that is inconsistent with its
12 purpose set forth in section 2(b); or

13 (2) refuses, fails, or neglects to discharge its
14 obligations under this chapter, or threatens to do so.

15 **SEC. 8. UNITED STATES RELEASE FROM LIABILITY.**

16 The United States shall not be liable for any debts,
17 defaults, acts, or omissions of the Foundation nor shall
18 the full faith and credit of the United States extend to
19 any obligations of the Foundation.

20 **SEC. 9. ACTIVITIES OF THE FOUNDATION AND DEPART-**
21 **MENT OF THE INTERIOR.**

22 The activities of the Foundation authorized under
23 this Act shall be supplemental to, and shall not preempt,
24 any authority or responsibility of the Department of the
25 Interior under any other provision of law.

1 **SEC. 10. DEFINITIONS.**

2 In this Act:

3 (1) BOARD.—The term “Board” means the
4 Board of Directors of the Foundation.

5 (2) FOUNDATION.—The term “Foundation”
6 means the Minerals Reclamation Foundation estab-
7 lished by this Act.

8 (3) INTEREST IN REAL PROPERTY.—The term
9 “Interest in real property” includes mineral rights,
10 right of way, and easements, appurtenant or in
11 gross.

12 (4) SECRETARY.—The term “Secretary” means
13 the Secretary of the Interior.

14 (5) SPLIT ESTATE LANDS.—The term “split es-
15 tate lands” means lands with respect to which the
16 surface is or will be in non-Federal ownership and
17 a mineral interest is owned by the United States.

18 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) START-UP FUNDS.—There is authorized to be ap-
20 propriated to the Secretary \$4,000,000 to carry out sec-
21 tion 5(a).

22 (b) MATCHING FUNDS.—There is authorized to be
23 appropriated to the Secretary \$3,000,000 for each of fiscal
24 years 2009 through 2013, which shall be made available
25 by the Secretary to the Foundation to match, on a one-

1 for-one basis, private contributions made to the Founda-
2 tion.

○