

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

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**FILE:** B-211306**DATE:** April 9, 1984**MATTER OF:** Monetary credits under the Cranberry  
Wilderness Act

- DIGEST:**
1. Monetary credits issued pursuant to section 4(c)(2)(B) of the Cranberry Wilderness Act, Public Law 97-466, are not restricted to use in West Virginia.
  2. Monetary credits issued pursuant to section 4(c)(2)(B) of the Cranberry Wilderness Act are not limited to use against payments on mineral, oil, or gas leases.
  3. There is no indication in the Cranberry Wilderness Act or its legislative history that Congress intended to limit the use of monetary credits to payments into the Treasury on behalf of the Department of the Interior.
  4. Monetary credits issued under the Cranberry Wilderness Act are to be applied against the Federal Government's share of payments made pursuant to section 35 of the Mineral Lands Leasing Act of 1920, as amended, 30 U.S.C. § 191. Congress did not intend to reduce the States' share of section 35 payments.
  5. Monetary credits issued under the Cranberry Wilderness Act are not limited to transfer in total from one party to another.
  6. The Cranberry Wilderness Act does not authorize the Bureau of Land Management to increase the value of monetary credits which cannot be used until several years after their issuance through: (a) the payment of interest, (b) the discounting of the debt liquidated with the monetary credits, or (c) the payment of a premium to compensate for inflation between the date the credit is issued and the date on which it is redeemed.

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The Deputy Director of the Bureau of Land Management (BLM) of the Department of the Interior has requested our opinion on several questions concerning the use of monetary credits under the Cranberry Wilderness Act, Public Law 97-466, January 13, 1983, 96 Stat. 2538. The Act authorizes the Secretary of the Interior to extend monetary credits to the owners of mineral rights in the Cranberry Wilderness in exchange for their interests; the monetary credits may then be applied to offset certain payments due the Federal Government by the owners. Specifically, we are asked:

(1) Whether the Government may require that the monetary credits be used only in West Virginia;

(2)(a) Whether the Government may require that the monetary credits be used to offset payments on mineral, oil, or gas leases only;

(b) Whether the Government may limit the use of monetary credits to payments into the Treasury on behalf of the Department of the Interior;

(3) Whether the monetary credits may be used to offset only the Federal Government's share of receipts under the Mineral Lands Leasing Act of 1920;

(4) Whether the Government may require that monetary credits be transferred only in total from one party to another; and

(5) Whether, since it will take a minimum of 10 years to liquidate monetary credits under the Act, the Government is authorized to change the value of monetary credits through: (a) the payment of interest, (b) providing a discount in the value of the debt liquidated with the monetary credit, or (c) providing a premium to the monetary credit to compensate for inflation from the date of the credit to the date the credit is redeemed. We will respond to these questions in turn.

#### I. Geographic Area

The BLM submission notes that the Cranberry Wilderness Act does not specify in what geographic areas the monetary credits may be used, and questions whether the Government may require that they be used only in West Virginia. We think that such a restriction would not be in keeping with Congressional intent. Although this issue was not specifically addressed in the Act's legislative history, the explanatory statement submitted by the Senate Committee on Energy and

Natural Resources (128 Cong. Rec. S14461-S14464 (daily ed. December 13, 1982)) to accompany its amended version of H.R. 5161 indicated that:

"H.R. 5161 as reported, would replace the land exchange provision [contained in the House version] with an extension of a monetary credit to the owner of the mineral interests in the Cranberry area. Such credit would be used in connection with other federal mineral or oil and gas leases which the owner might seek, and would not affect the portion of royalties or bonus payments to state governments that would be made under such leases.<sup>1/</sup> S14463. (Emphasis added.)

The reference to State governments suggests that the Committee anticipated that the monetary credits would be used in more than one State. As noted in the explanatory statement (S14463), bidding rights were substituted for a proposed exchange for sites outside the State of West Virginia. Further, the statute places no geographic restriction on the use of the rights. Accordingly, we are of the opinion that the Government may not restrict the use of monetary credits to West Virginia.)

## II. Type of Payment Offset

Section 4(c)(2)(B) of the Cranberry Wilderness Act provides that--

"Upon voluntary surrender and relinquishment by the owner of all nonfederally owned coal deposits and other mineral interests and rights in the Cranberry Wilderness, the Secretary shall extend to the owner, its successors and assigns, a monetary credit to be used against that portion of payment, bonus payments, rental or royalty payments paid into the Treasury of the United States and retained by the Federal Government on any mineral, oil, or gas lease or other Federal property competitively won or otherwise held by the applicant, its successors, or assigns. \* \* \*"  
(Emphasis added.)

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<sup>1/</sup> Section 4(c)(2)(B) of the Cranberry Wilderness Act, which this paragraph explains, is discussed more fully in section II of this decision.

A portion of the explanatory statement which we cited in section I indicated that the monetary credits were to be used "in connection with other federal mineral or oil and gas leases which the owner might seek." It did not mention that the credits could be used against "other Federal property competitively won or otherwise held by the applicant, its successors, or assigns." We do not think that the Committee intended to suggest, by virtue of this omission, that the credits could be used only against payments on mineral, oil, or gas leases. We note that Representative Seiberling in supporting H.R. 5161 as amended, did not refer to "other Federal property" (128 Cong. Rec. H10490 (daily ed. December 20, 1982)). However, Senator Randolph of West Virginia, in advocating the bill's passage in the Senate, stated that the use of the credits would include "other Federal property competitively won or otherwise held." (128 Cong. Rec. S15474 (daily ed. December 18, 1982)). We think that the plain meaning of the language referring to "other Federal property" is to extend the use of the credits. Accordingly, section 4(c)(2)(B) permits the use of monetary credits against any payment on Federal property.

Likewise, we see no indication that the Congress intended to limit the use of monetary credits to payments into the Treasury on behalf of the Department of the Interior. Since the monetary credits may be used against any payment on Federal property, it follows that there is no restriction because a particular payment is made outside of the Department of the Interior. Consequently, with regard to the examples referred to in the submission, the credits may be used against the purchase of timber from the Forest Service, Department of Agriculture, or to purchase surplus property from the General Services Administration.

### III. Distribution of receipts

The BLM submission notes that we recently ruled that bidding rights (under the Rattlesnake National Recreation Area and Wilderness Act of 1980) are not "money" and that the States are not entitled to 50 percent of their value under the

distribution formula set forth in section 35 of the Mineral Lands Leasing Act (MLLA).<sup>2/</sup> 62 Comp. Gen. 102 (1982). BLM suggests that the Cranberry Wilderness Act seeks to overcome this by providing that the monetary credit is to be used against that portion of payment to the Government that is paid into the Treasury and retained by the Federal Government. BLM questions whether the monetary credit must be applied against the Government share of the receipts, thereby leaving the cash received available for distribution to the States, or whether the distribution formula contained in section 35 of the MLLA should be applied against all receipts, thereby reducing on a pro-rata basis the amount paid to the State involved.

Section 35 of the Mineral Lands Leasing Act of 1920, as amended, 30 U.S.C. § 191, provides that all money received from sales, bonuses, royalties, and rentals of public lands pursuant to 30 U.S.C. Chapter 3A and the Geothermal Steam Act of 1970 is to be paid into the United States Treasury, and that 50 percent of such funds are then to be paid out to the State (other than Alaska) in which the leased lands or deposits are located.

Section 4(c)(2)(B) of the Cranberry Wilderness Act states that the monetary credits may be used for payments paid into the Treasury, "and retained by the Federal Government." In its report on the proposed Cranberry Wilderness Act, the Senate Committee on Energy and Natural Resources explained that:

"\* \* \* The monetary credit applies only to the federal portion of payment, bonus payments, rental or royalty payments paid into the U.S. Treasury. It does not apply [to] that portion of these payments that are shared with the States."  
128 Cong. Rec. S14463 (daily ed. December 13, 1982).

It seems clear that Congress intended that the monetary credit would be applied only against the Government's share of

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<sup>2/</sup> Subsequent to our decision, section 7 of the Lee Metcalf Wilderness and Management Act of 1983, Public Law 98-140, October 31, 1983, 97 Stat. 901, amended section 4(b)(3) of the Rattlesnake National Recreation Area and Wilderness Act of 1980 to provide that unexercised bidding rights could be used as a monetary credit, which would be considered "money" within the meaning of section 35 of the MLLA.

the receipts, and that the States would continue to receive their share in cash. The Senate Committee's explanatory statement indicates that the application of monetary credits would not affect the portion of receipts to which the States are entitled under section 35. Prior to its amendment in 1983, section 4(b)(3) of the Rattlesnake Area Act provided for the use of outstanding bidding rights as a credit against "any royalty, rental, or advance royalty payments owed to the United States." This is the language upon which we based our decision at 62 Comp. Gen. 102. The Cranberry Wilderness Act, on the other hand, contains qualifying language: monetary credits may be used against "that portion of payment, bonus payments, rental or royalty payments paid into the Treasury of the United States and retained by the Federal Government." (Emphasis added.) We think that the underlined words were included to indicate that the exercise of monetary credits would not affect receipts by the States.

#### IV. Transfer of Monetary Credits

Section 4(c)(2)(B) of the Cranberry Wilderness Act provides that the monetary credit extended under the Act "may be transferred or sold at any time by the owner to any other party with all the rights of the owner to the credit, and after such transfer, the owner shall notify the Secretary." The BLM questions whether it may require that this credit be transferred only in total from one party to another, or whether it must allow transfer of portions of the credit. The Bureau indicates that it is concerned that the tracking of subsequent owners could prove extremely difficult if division of the credit is permitted.

The Act's legislative history is silent on this issue. Since there is no evidence that the Congress intended to require that the credit be transferred only in total, we are of the view that transfer of portions of the credit is permissible. We find a degree of support for this conclusion in the legislative history of the Lee Metcalf Wilderness and Management Act of 1983, Public Law 98-140, which amended subsection 4(b) of the Rattlesnake National Recreation Area and Wilderness Act of 1980 to provide, in language identical to that of the Cranberry Wilderness Act, that the bidding rights issued under the Act could be "transferred or sold at any time by the owner to any other party with all the rights of the owner to the credit." The House report which accompanied the Metcalf Wilderness bill, H.R. Rep. No. 98-405 Part I, 98th Cong., 1st Sess. 12 (1983), indicated that the amended version of subsection 4(b) provided for the transfer by the Montana Power Company of "its bidding rights (credits) to others in any state in the event it cannot use them

itself." (Emphasis added.) We think that the underlined language implies that the bidding rights or credits may be divided for transfer. We recognize that the Congress need not have intended the same result when it enacted the Metcalf Act (approximately 9 1/2 months later) as it did when it enacted the Cranberry Act, but the reiteration of precisely the same language suggests that the Congress had a similar intention.

We understand BLM's concern that a system in which numerous assignments and reassignments of credits are permitted will be difficult to administer. Not only would the tracking of subsequent owners be difficult, but the requirement contained in subsection 4(c)(2)(C) that not more than 10 percent of the credit be used in any 1 year would pose an additional administrative burden. Based on the statutory language, however, we cannot conclude that the Congress intended to restrict transfers of monetary credits in order to avoid administrative difficulties.

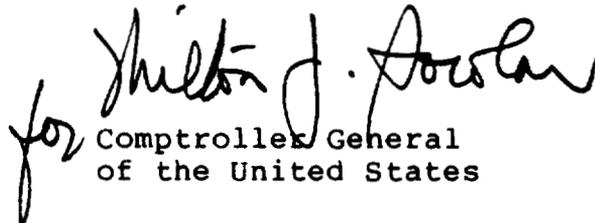
#### V. Valuation of monetary credits

The BLM submission notes that since section 4(c)(2)(C) of the Cranberry Wilderness Act limits the use of monetary credits in any 1 year to 10 percent of the total face value issued, it would take a minimum of 10 years to liquidate the monetary credits. BLM questions whether it is authorized by the Cranberry Act or other Federal law to change the value of monetary credits through: (a) the payment of interest, (b) providing a discount in the value of the debt liquidated with the monetary credit, or (c) providing a premium to the monetary credit to compensate for inflation from the date of the credit to the date the credit is redeemed.

In 62 Comp. Gen. 102 (1982), we considered a proposal by the Montana Power Company that the bidding rights which it was issued in exchange for its lands under the Rattlesnake National Recreation Area and Wilderness Act of 1980 be adjusted in value to reflect "a rate of interest growth of ten percent (10%) per annum, compounded daily." The rationale for the increase was that it might take a number of years before all of the bidding rights were exercised. We noted that the Rattlesnake Area Act provided for bidding rights equal to "the fair market value of the private lands or interests therein conveyed in exchange for their issuance," and the Act made no provision for an increase in the value of unused bidding rights. We concluded that the Rattlesnake Area Act did not authorize an increase in the value of bidding rights in excess of the agreed upon fair market value of the lands.

As previously noted, the Rattlesnake Area Act was amended subsequent to our decision to provide that interest would accrue on unused bidding rights. The House Report accompanying the amending legislation, which referred to our decision, explained that the payment of interest based on current average market yield was "standard practice on government obligations," but that "specific clarification is needed for the relatively novel concept of 'bidding rights.'" H.R. Rep. No. 98-405 Part I, 98th Cong., 1st Sess. 12-13 (1983).

Section 4(c)(2)(C) of the Cranberry Wilderness Act provides, in language very similar to that of the Rattlesnake Area Act prior to its amendment, that monetary credits authorized under the Act would be based on "the fair market value of the owner's mineral interests." No provision is made for an increase in the value of unused credits over time. Accordingly, we are of the opinion that the Cranberry Wilderness Act does not provide for the payment of interest, or the discounting of the debt liquidated with the monetary credit, or the payment of a premium to compensate for inflation between the date the credit is issued and the date on which it is redeemed.

*for*    
Comptroller General  
of the United States