

Union Calendar No. 339

109TH CONGRESS
2^D SESSION

H. R. 4301

[Report No. 109-588]

To direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James Division, South Dakota, to the Commission of Schools and Public Lands and the Department of Game, Fish, and Parks of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 10, 2005

Ms. HERSETH introduced the following bill; which was referred to the Committee on Resources

JULY 20, 2006

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James Division, South Dakota, to the Commission of Schools and Public Lands and the Department of Game, Fish, and Parks of the State of South Dakota

for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, 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 “Blunt Reservoir and
 5 Pierre Canal Land Conveyance Act of 2005”.

6 **SEC. 2. BLUNT RESERVOIR AND PIERRE CANAL.**

7 (a) DEFINITIONS.—In this section:

8 (1) BLUNT RESERVOIR FEATURE.—The term
 9 “Blunt Reservoir feature” means the Blunt Res-
 10 ervoir feature of the Oahe Unit, James Division, au-
 11 thorized by the Act of August 3, 1968 (82 Stat.
 12 624), as part of the Pick-Sloan Missouri River Basin
 13 program.

14 (2) COMMISSION.—The term “Commission”
 15 means the Commission of Schools and Public Lands
 16 of the State.

17 (3) NONPREFERENTIAL LEASE PARCEL.—The
 18 term “nonpreferential lease parcel” means a parcel
 19 of land that—

20 (A) was purchased by the Secretary for use
 21 in connection with the Blunt Reservoir feature
 22 or the Pierre Canal feature; and

1 (B) was considered to be a nonpreferential
2 lease parcel by the Secretary as of January 1,
3 2001, and is reflected as such on the roster of
4 leases of the Bureau of Reclamation for 2001.

5 (4) PIERRE CANAL FEATURE.—The term
6 “Pierre Canal feature” means the Pierre Canal fea-
7 ture of the Oahe Unit, James Division, authorized
8 by the Act of August 3, 1968 (82 Stat. 624), as
9 part of the Pick-Sloan Missouri River Basin pro-
10 gram.

11 (5) PREFERENTIAL LEASEHOLDER.—The term
12 “preferential leaseholder” means a person or de-
13 scendant of a person that held a lease on a pref-
14 erential lease parcel as of January 1, 2001, and is
15 reflected as such on the roster of leases of the Bu-
16 reau of Reclamation for 2001.

17 (6) PREFERENTIAL LEASE PARCEL.—The term
18 “preferential lease parcel” means a parcel of land
19 that—

20 (A) was purchased by the Secretary for use
21 in connection with the Blunt Reservoir feature
22 or the Pierre Canal feature; and

23 (B) was considered to be a preferential
24 lease parcel by the Secretary as of January 1,

1 2001, and is reflected as such on the roster of
2 leases of the Bureau of Reclamation for 2001.

3 (7) SECRETARY.—The term “Secretary” means
4 the Secretary of the Interior, acting through the
5 Commissioner of Reclamation.

6 (8) STATE.—The term “State” means the State
7 of South Dakota, including a successor in interest of
8 the State.

9 (9) UNLEASED PARCEL.—The term “unleased
10 parcel” means a parcel of land that—

11 (A) was purchased by the Secretary for use
12 in connection with the Blunt Reservoir feature
13 or the Pierre Canal feature; and

14 (B) is not under lease as of the date of en-
15 actment of this Act.

16 (b) DEAUTHORIZATION.—The Blunt Reservoir fea-
17 ture is deauthorized.

18 (c) ACCEPTANCE OF LAND AND OBLIGATIONS.—

19 (1) IN GENERAL.—As a condition of each con-
20 veyance under subsections (d)(5) and (e), respec-
21 tively, the State shall agree to accept—

22 (A) in “as is” condition, the portions of
23 the Blunt Reservoir Feature and the Pierre
24 Canal Feature that pass into State ownership;

1 (B) any liability accruing after the date of
2 conveyance as a result of the ownership, oper-
3 ation, or maintenance of the features referred
4 to in subparagraph (A), including liability asso-
5 ciated with certain outstanding obligations asso-
6 ciated with expired easements, or any other
7 right granted in, on, over, or across either fea-
8 ture; and

9 (C) the responsibility that the Commission
10 will act as the agent for the Secretary in ad-
11 ministering the purchase option extended to
12 preferential leaseholders under subsection (d).

13 (2) RESPONSIBILITIES OF THE STATE.—An
14 outstanding obligation described in paragraph (1)(B)
15 shall inure to the benefit of, and be binding upon,
16 the State.

17 (3) OIL, GAS, MINERAL AND OTHER OUT-
18 STANDING RIGHTS.—A conveyance to the State
19 under subsection (d)(5) or (e) or a sale to a pref-
20 erential leaseholder under subsection (d) shall be
21 made subject to—

22 (A) oil, gas, and other mineral rights re-
23 served of record, as of the date of enactment of
24 this Act, by or in favor of a third party; and

1 (B) any permit, license, lease, right-of-use,
2 or right-of-way of record in, on, over, or across
3 a feature referred to in paragraph (1)(A) that
4 is outstanding as to a third party as of the date
5 of enactment of this Act.

6 (4) ADDITIONAL CONDITIONS OF CONVEYANCE
7 TO STATE.—A conveyance to the State under sub-
8 section (d)(5) or (e) shall be subject to the reserva-
9 tions by the United States and the conditions speci-
10 fied in section 1 of the Act of May 19, 1948 (chap-
11 ter 310; 62 Stat. 240), as amended (16 U.S.C.
12 667b), for the transfer of property to State agencies
13 for wildlife conservation purposes.

14 (d) PURCHASE OPTION.—

15 (1) IN GENERAL.—A preferential leaseholder
16 shall have an option to purchase from the Commis-
17 sion, acting as an agent for the Secretary, the pref-
18 erential lease parcel that is the subject of the lease.

19 (2) TERMS.—

20 (A) IN GENERAL.—Except as provided in
21 subparagraph (B), a preferential leaseholder
22 may elect to purchase a parcel on one of the
23 following terms:

24 (i) Cash purchase for the amount that
25 is equal to—

1 (I) the value of the parcel deter-
2 mined under paragraph (4); minus

3 (II) ten percent of that value.

4 (ii) Installment purchase, with 10 per-
5 cent of the value of the parcel determined
6 under paragraph (4) to be paid on the date
7 of purchase and the remainder to be paid
8 over not more than 30 years at 3 percent
9 annual interest.

10 (B) VALUE UNDER \$10,000.—If the value
11 of the parcel is under \$10,000, the purchase
12 shall be made on a cash basis in accordance
13 with subparagraph (A)(i).

14 (3) OPTION EXERCISE PERIOD.—

15 (A) IN GENERAL.—A preferential lease-
16 holder shall have until the date that is 5 years
17 after enactment of this Act to exercise the op-
18 tion under paragraph (1).

19 (B) CONTINUATION OF LEASES.—Until the
20 date specified in subparagraph (A), a pref-
21 erential leaseholder shall be entitled to continue
22 to lease from the Secretary the parcel leased by
23 the preferential leaseholder under the same
24 terms and conditions as under the lease, as in
25 effect as of the date of enactment of this Act.

1 (4) VALUATION.—

2 (A) IN GENERAL.—The value of a pref-
3 erential lease parcel shall be its fair market
4 value for agricultural purposes determined by
5 an independent appraisal, exclusive of the value
6 of private improvements made by the lease-
7 holders while the land was federally owned be-
8 fore the date of the enactment of this Act, in
9 conformance with the Uniform Appraisal
10 Standards for Federal Land Acquisition.

11 (B) FAIR MARKET VALUE.—Any dispute
12 over the fair market value of a property under
13 subparagraph (A) shall be resolved in accord-
14 ance with section 2201.4 of title 43, Code of
15 Federal Regulations.

16 (5) CONVEYANCE TO THE STATE.—

17 (A) IN GENERAL.—If a preferential lease-
18 holder fails to purchase a parcel within the pe-
19 riod specified in paragraph (3)(A), the Sec-
20 retary shall convey the parcel to the State of
21 South Dakota Department of Game, Fish, and
22 Parks.

23 (B) WILDLIFE HABITAT MITIGATION.—
24 Land conveyed under subparagraph (A) shall be
25 used by the South Dakota Department of

1 Game, Fish, and Parks for the purpose of miti-
2 gating the wildlife habitat that was lost as a re-
3 sult of the development of the Pick-Sloan
4 project.

5 (6) USE OF PROCEEDS.—Proceeds of sales of
6 land under this Act shall be deposited as miscella-
7 neous funds in the Treasury and such funds shall be
8 made available, subject to appropriations, to the
9 State for the establishment of a trust fund to pay
10 the county taxes on the lands received by the State
11 Department of Game, Fish, and Parks under the
12 bill.

13 (e) CONVEYANCE OF NONPREFERENTIAL LEASE
14 PARCELS AND UNLEASED PARCELS.—

15 (1) CONVEYANCE BY SECRETARY TO STATE.—

16 (A) IN GENERAL.—Not later than 1 year
17 after the date of enactment of this Act, the Sec-
18 retary shall convey to the South Dakota De-
19 partment of Game, Fish, and Parks the non-
20 preferential lease parcels and unleased parcels
21 of the Blunt Reservoir and Pierre Canal.

22 (B) WILDLIFE HABITAT MITIGATION.—

23 Land conveyed under subparagraph (A) shall be
24 used by the South Dakota Department of
25 Game, Fish, and Parks for the purpose of miti-

1 gating the wildlife habitat that was lost as a re-
2 sult of the development of the Pick-Sloan
3 project.

4 (2) LAND EXCHANGES FOR NONPREFERENTIAL
5 LEASE PARCELS AND UNLEASED PARCELS.—

6 (A) IN GENERAL.—With the concurrence
7 of the South Dakota Department of Game,
8 Fish, and Parks, the South Dakota Commission
9 of Schools and Public Lands may allow a per-
10 son to exchange land that the person owns else-
11 where in the State for a nonpreferential lease
12 parcel or unleased parcel at Blunt Reservoir or
13 Pierre Canal, as the case may be.

14 (B) PRIORITY.—The right to exchange
15 nonpreferential lease parcels or unleased parcels
16 shall be granted in the following order or pri-
17 ority:

18 (i) Exchanges with current lessees for
19 nonpreferential lease parcels.

20 (ii) Exchanges with adjoining and ad-
21 jacent landowners for unleased parcels and
22 nonpreferential lease parcels not exchanged
23 by current lessees.

24 (C) EASEMENT FOR WATER CONVEYANCE
25 STRUCTURE.—As a condition of the exchange of

1 land of the Pierre Canal Feature under this
2 paragraph, the United States reserves a per-
3 petual easement to the land to allow for the
4 right to design, construct, operate, maintain,
5 repair, and replace a pipeline or other water
6 conveyance structure over, under, across, or
7 through the Pierre Canal feature.

8 (f) RELEASE FROM LIABILITY.—

9 (1) IN GENERAL.—Effective on the date of con-
10 veyance of any parcel under this Act, the United
11 States shall not be held liable by any court for dam-
12 ages of any kind arising out of any act, omission, or
13 occurrence relating to the parcel, except for damages
14 for acts of negligence committed by the United
15 States or by an employee, agent, or contractor of the
16 United States, before the date of conveyance.

17 (2) NO ADDITIONAL LIABILITY.—Nothing in
18 this section adds to any liability that the United
19 States may have under chapter 171 of title 28,
20 United States Code (commonly known as the “Fed-
21 eral Tort Claims Act”).

22 (g) REQUIREMENTS CONCERNING CONVEYANCE OF
23 LEASE PARCELS.—

24 (1) INTERIM REQUIREMENTS.—During the pe-
25 riod beginning on the date of enactment of this Act

1 and ending on the date of conveyance of the parcel,
2 the Secretary shall continue to lease each pref-
3 erential lease parcel or nonpreferential lease parcel
4 to be conveyed under this section under the terms
5 and conditions applicable to the parcel on the date
6 of enactment of this Act.

7 (2) PROVISION OF PARCEL DESCRIPTIONS.—
8 Not later than 180 days after the date of enactment
9 of this Act, the Secretary shall provide the State a
10 full legal description of all preferential lease parcels
11 and nonpreferential lease parcels that may be con-
12 veyed under this section.

13 (h) AUTHORIZATION OF APPROPRIATIONS.—There is
14 authorized to be appropriated to carry out this Act
15 \$750,000 to reimburse the Secretary for expenses in-
16 curred in implementing this Act, and such sums as are
17 necessary to reimburse the Commission for expenses in-
18 curred implementing this Act, not to exceed 10 percent
19 of the cost of each transaction conducted under this Act.

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