

109TH CONGRESS
2D SESSION

S. 2205

AN ACT

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 2006”.

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

2 (a) DEFINITIONS.—In this section:

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

9 (2) COMMISSION.—The term “Commission”
 10 means the Commission of Schools and Public Lands
 11 of the State.

12 (3) NONPREFERENTIAL LEASE PARCEL.—The
 13 term “nonpreferential lease parcel” means a parcel
 14 of land that—

15 (A) was purchased by the Secretary for use
 16 in connection with the Blunt Reservoir feature
 17 or the Pierre Canal feature; and

18 (B) was considered to be a nonpreferential
 19 lease parcel by the Secretary as of January 1,
 20 2001, and is reflected as such on the roster of
 21 leases of the Bureau of Reclamation for 2001.

22 (4) PIERRE CANAL FEATURE.—The term
 23 “Pierre Canal feature” means the Pierre Canal fea-
 24 ture of the Oahe Unit, James Division, authorized
 25 by the Act of August 3, 1968 (82 Stat. 624), as

1 part of the Pick-Sloan Missouri River Basin pro-
2 gram.

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

9 (6) PREFERENTIAL LEASE PARCEL.—The term
10 “preferential lease parcel” means a parcel of land
11 that—

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

15 (B) was considered to be a preferential
16 lease parcel by the Secretary as of January 1,
17 2001, and is reflected as such on the roster of
18 leases of the Bureau of Reclamation for 2001.

19 (7) SECRETARY.—The term “Secretary” means
20 the Secretary of the Interior, acting through the
21 Commissioner of Reclamation.

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

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

3 (A) was purchased by the Secretary for use
4 in connection with the Blunt Reservoir feature
5 or the Pierre Canal feature; and

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

8 (b) DEAUTHORIZATION.—The Blunt Reservoir fea-
9 ture is deauthorized.

10 (c) ACCEPTANCE OF LAND AND OBLIGATIONS.—

11 (1) IN GENERAL.—As a term of each convey-
12 ance under subsections (d)(5) and (e), respectively,
13 the State may agree to accept—

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

17 (B) any liability accruing after the date of
18 conveyance as a result of the ownership, oper-
19 ation, or maintenance of the features referred
20 to in subparagraph (A), including liability asso-
21 ciated with certain outstanding obligations asso-
22 ciated with expired easements, or any other
23 right granted in, on, over, or across either fea-
24 ture; and

1 (C) the responsibility that the Commission
 2 will act as the agent for the Secretary in ad-
 3 ministering the purchase option extended to
 4 preferential leaseholders under subsection (d).

5 (2) RESPONSIBILITIES OF THE STATE.—An
 6 outstanding obligation described in paragraph (1)(B)
 7 shall inure to the benefit of, and be binding upon,
 8 the State.

9 (3) OIL, GAS, MINERAL AND OTHER OUT-
 10 STANDING RIGHTS.—A conveyance to the State
 11 under subsection (d)(5) or (e) or a sale to a pref-
 12 erential leaseholder under subsection (d) shall be
 13 made subject to—

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

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

22 (4) ADDITIONAL CONDITIONS OF CONVEYANCE
 23 TO STATE.—A conveyance to the State under sub-
 24 section (d)(5) or (e) shall be subject to the reserva-
 25 tions by the United States and the conditions speci-

1 fied in section 1 of the Act of May 19, 1948 (chap-
 2 ter 310; 62 Stat. 240), as amended (16 U.S.C.
 3 667b), for the transfer of property to State agencies
 4 for wildlife conservation purposes.

5 (d) PURCHASE OPTION.—

6 (1) IN GENERAL.—A preferential leaseholder
 7 shall have an option to purchase from the Secretary
 8 or the Commission, acting as an agent for the Sec-
 9 retary, the preferential lease parcel that is the sub-
 10 ject of the lease.

11 (2) TERMS.—

12 (A) IN GENERAL.—Except as provided in
 13 subparagraph (B), a preferential leaseholder
 14 may elect to purchase a parcel on one of the
 15 following terms:

16 (i) Cash purchase for the amount that
 17 is equal to—

18 (I) the value of the parcel deter-
 19 mined under paragraph (4); minus

20 (II) ten percent of that value.

21 (ii) Installment purchase, with 10 per-
 22 cent of the value of the parcel determined
 23 under paragraph (4) to be paid on the date
 24 of purchase and the remainder to be paid

1 over not more than 30 years at 3 percent
2 annual interest.

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

7 (3) OPTION EXERCISE PERIOD.—

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

12 (B) CONTINUATION OF LEASES.—Until the
13 date specified in subparagraph (A), a pref-
14 erential leaseholder shall be entitled to continue
15 to lease from the Secretary the parcel leased by
16 the preferential leaseholder under the same
17 terms and conditions as under the lease, as in
18 effect as of the date of enactment of this Act.

19 (4) VALUATION.—

20 (A) IN GENERAL.—The value of a pref-
21 erential lease parcel shall be its fair market
22 value for agricultural purposes determined by
23 an independent appraisal less 25 percent, exclu-
24 sive of the value of private improvements made
25 by the leaseholders while the land was federally

owned before the date of the enactment of this Act, in conformance with the Uniform Appraisal Standards for Federal Land Acquisition.

(B) FAIR MARKET VALUE.—Any dispute over the fair market value of a property under subparagraph (A) shall be resolved in accordance with section 2201.4 of title 43, Code of Federal Regulations.

(5) CONVEYANCE TO THE STATE.—

(A) IN GENERAL.—If a preferential leaseholder fails to purchase a parcel within the period specified in paragraph (3)(A), the Secretary shall offer to convey the parcel to the State of South Dakota Department of Game, Fish, and Parks.

(B) WILDLIFE HABITAT MITIGATION.—Land conveyed under subparagraph (A) shall be used by the South Dakota Department of Game, Fish, and Parks for the purpose of mitigating the wildlife habitat that was lost as a result of the development of the Pick-Sloan project.

(6) USE OF PROCEEDS.—Proceeds of sales of land under this Act shall be deposited as miscellaneous funds in the Treasury and such funds shall be

1 made available, subject to appropriations, to the
2 State for the establishment of a trust fund to pay
3 the county taxes on the lands received by the State
4 Department of Game, Fish, and Parks under the
5 bill.

6 (e) CONVEYANCE OF NONPREFERENTIAL LEASE
7 PARCELS AND UNLEASED PARCELS.—

8 (1) CONVEYANCE BY SECRETARY TO STATE.—

9 (A) IN GENERAL.—Not later than 1 year
10 after the date of enactment of this Act, the Sec-
11 retary shall offer to convey to the South Dakota
12 Department of Game, Fish, and Parks the non-
13 preferential lease parcels and unleased parcels
14 of the Blunt Reservoir and Pierre Canal.

15 (B) WILDLIFE HABITAT MITIGATION.—

16 Land conveyed under subparagraph (A) shall be
17 used by the South Dakota Department of
18 Game, Fish, and Parks for the purpose of miti-
19 gating the wildlife habitat that was lost as a re-
20 sult of the development of the Pick-Sloan
21 project.

22 (2) LAND EXCHANGES FOR NONPREFERENTIAL
23 LEASE PARCELS AND UNLEASED PARCELS.—

24 (A) IN GENERAL.—With the concurrence
25 of the South Dakota Department of Game,

1 Fish, and Parks, the South Dakota Commission
2 of Schools and Public Lands may allow a per-
3 son to exchange land that the person owns else-
4 where in the State for a nonpreferential lease
5 parcel or unleased parcel at Blunt Reservoir or
6 Pierre Canal, as the case may be.

7 (B) PRIORITY.—The right to exchange
8 nonpreferential lease parcels or unleased parcels
9 shall be granted in the following order or pri-
10 ority:

11 (i) Exchanges with current lessees for
12 nonpreferential lease parcels.

13 (ii) Exchanges with adjoining and ad-
14 jacent landowners for unleased parcels and
15 nonpreferential lease parcels not exchanged
16 by current lessees.

17 (C) EASEMENT FOR WATER CONVEYANCE
18 STRUCTURE.—As a condition of the exchange of
19 land of the Pierre Canal Feature under this
20 paragraph, the United States reserves a per-
21 petual easement to the land to allow for the
22 right to design, construct, operate, maintain,
23 repair, and replace a pipeline or other water
24 conveyance structure over, under, across, or
25 through the Pierre Canal feature.

1 (f) RELEASE FROM LIABILITY.—

2 (1) IN GENERAL.—Effective on the date of con-
3 veyance of any parcel under this Act, the United
4 States shall not be held liable by any court for dam-
5 ages of any kind arising out of any act, omission, or
6 occurrence relating to the parcel, except for damages
7 for acts of negligence committed by the United
8 States or by an employee, agent, or contractor of the
9 United States, before the date of conveyance.

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

15 (g) REQUIREMENTS CONCERNING CONVEYANCE OF
16 LEASE PARCELS.—

17 (1) INTERIM REQUIREMENTS.—During the pe-
18 riod beginning on the date of enactment of this Act
19 and ending on the date of conveyance of the parcel,
20 the Secretary shall continue to lease each pref-
21 erential lease parcel or nonpreferential lease parcel
22 to be conveyed under this section under the terms
23 and conditions applicable to the parcel on the date
24 of enactment of this Act.

1 (2) PROVISION OF PARCEL DESCRIPTIONS.—

2 Not later than 180 days after the date of the enact-
3 ment of this Act, the Secretary, in consultation with
4 the Commission, shall provide the State a full legal
5 description of all preferential lease parcels and non-
6 preferential lease parcels that may be conveyed
7 under this section.

8 (h) CURATION OF ARCHEOLOGICAL COLLECTIONS.—

9 The Secretary, in consultation with the State, shall trans-
10 fer, without cost to the State, all archeological and cul-
11 tural resource items collected from the Blunt Reservoir
12 Feature and Pierre Canal Feature to the South Dakota
13 State Historical Society.

14 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
15 authorized to be appropriated to carry out this Act
16 \$750,000 to reimburse the Secretary for expenses in-
17 curred in implementing this Act, and such sums as are
18 necessary to reimburse the Commission and the State De-
19 partment of Game, Fish, and Parks for expenses incurred

- 1 implementing this Act, not to exceed 10 percent of the
- 2 cost of each transaction conducted under this Act.

Passed the Senate December 7, 2006.

Attest:

Secretary.

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