

109TH CONGRESS  
2D SESSION

# S. 2205

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.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 26, 2006

Mr. THUNE introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## 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 2006”.

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

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

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

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

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

21                 (B) was considered to be a preferential  
22                 lease parcel by the Secretary as of January 1,  
23                 2001, and is reflected as such on the roster of  
24                 leases of the Bureau of Reclamation for 2001.

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

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

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

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

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

14           (b) DEAUTHORIZATION.—The Blunt Reservoir fea-  
15           ture is deauthorized.

16           (c) ACCEPTANCE OF LAND AND OBLIGATIONS.—

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

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

23                   (B) any liability accruing after the date of  
24                  conveyance as a result of the ownership, oper-  
25                  ation, or maintenance of the features referred

to in subparagraph (A), including liability associated with certain outstanding obligations associated with expired easements, or any other right granted in, on, over, or across either feature; and

(C) the responsibility that the Commission will act as the agent for the Secretary in administering the purchase option extended to preferential leaseholders under subsection (d).

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

(3) OIL, GAS, MINERAL AND OTHER OUTSTANDING RIGHTS.—A conveyance to the State under subsection (d)(5) or (e) or a sale to a preferential leaseholder under subsection (d) shall be made subject to—

(A) oil, gas, and other mineral rights reserved of record, as of the date of enactment of this Act, by or in favor of a third party; and

(B) any permit, license, lease, right-of-use, or right-of-way of record in, on, over, or across a feature referred to in paragraph (1)(A) that

is outstanding as to a third party as of the date of enactment of this Act.

(4) ADDITIONAL CONDITIONS OF CONVEYANCE TO STATE.—A conveyance to the State under subsection (d)(5) or (e) shall be subject to the reservations by the United States and the conditions specified in section 1 of the Act of May 19, 1948 (chapter 310; 62 Stat. 240), as amended (16 U.S.C. 667b), for the transfer of property to State agencies for wildlife conservation purposes.

(d) PURCHASE OPTION.—

(1) IN GENERAL.—A preferential leaseholder shall have an option to purchase from the Commission, acting as an agent for the Secretary, the preferential lease parcel that is the subject of the lease.

(2) TERMS.—

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

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

(I) the value of the parcel determined under paragraph (4); minus

(II) ten percent of that value.

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

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

11 (3) OPTION EXERCISE PERIOD.—

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

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

23 (4) VALUATION.—

24 (A) IN GENERAL.—The value of a pref-  
 25 erential lease parcel shall be its fair market

1 value for agricultural purposes determined by  
 2 an independent appraisal, exclusive of the value  
 3 of private improvements made by the lease-  
 4 holders while the land was federally owned be-  
 5 fore the date of the enactment of this Act, in  
 6 conformance with the Uniform Appraisal  
 7 Standards for Federal Land Acquisition.

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

13 (5) CONVEYANCE TO THE STATE.—

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

20 (B) WILDLIFE HABITAT MITIGATION.—  
 21 Land conveyed under subparagraph (A) shall be  
 22 used by the South Dakota Department of  
 23 Game, Fish, and Parks for the purpose of miti-  
 24 gating the wildlife habitat that was lost as a re-



1           sult of the development of the Pick-Sloan  
2           project.

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

11          (e) CONVEYANCE OF NONPREFERENTIAL LEASE  
12          PARCELS AND UNLEASED PARCELS.—

13           (1) CONVEYANCE BY SECRETARY TO STATE.—

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

20           (B) WILDLIFE HABITAT MITIGATION.—

21           Land conveyed under subparagraph (A) shall be  
22           used by the South Dakota Department of  
23           Game, Fish, and Parks for the purpose of miti-  
24           gating the wildlife habitat that was lost as a re-

1           sult of the development of the Pick-Sloan  
2           project.

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

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

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

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

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

23                   (C) EASEMENT FOR WATER CONVEYANCE  
24          STRUCTURE.—As a condition of the exchange of  
25          land of the Pierre Canal Feature under this

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

7 (f) RELEASE FROM LIABILITY.—

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

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

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

23 (1) INTERIM REQUIREMENTS.—During the pe-  
24 riod beginning on the date of enactment of this Act  
25 and ending on the date of conveyance of the parcel,

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

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

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

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