

BLUNT RESERVOIR AND PIERRE CANAL LAND
CONVEYANCE ACT OF 2005

JULY 20, 2006.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 4301]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4301) 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, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 4301 is 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.

BACKGROUND AND NEED FOR LEGISLATION

As part of the Pick-Sloan Missouri Basin Program, the federal government planned numerous dams and reservoirs on the Upper Missouri River in South Dakota. The projects would provide irrigation water, flood control, and power generation. Two of the four completed reservoirs (Oahe and Sharpe) impounded over 220,500 acres of state and tribal lands.

In 1968, Congress authorized the Secretary of the Interior to construct, operate, and maintain the Initial Stage of the Oahe Unit (Unit), James Division, for irrigation, municipal and industrial water supplies, flood control, fish and wildlife conservation, and recreational activities. Known as the Oahe Irrigation Project, it was to consist of a pumping plant, a system of main canals (including the Pierre Canal), along with the Blunt Dam and Reservoir roughly 35 miles east of Pierre.

The federal government was authorized to acquire 42,000 acres of land to construct and operate the Blunt Reservoir and Pierre Canal feature of the Unit. Between 1972–1977, approximately 19,000 acres were acquired in Hughes and Sully Counties with an understanding that the willing sellers would be able to lease back the land until the Project was completed. Some lands were purchased from willing sellers, while others were acquired through condemnation. At the time, many landowners believed that they would be able to purchase the land back if it was not needed for the Project. Some local opposition to the Project surfaced in 1973 and continued to build until a series of public meetings were held in 1977 to determine if the Project should continue. Later that year, Project construction was halted. All major construction contract activities ceased, and land acquisition was halted, though the Blunt Reservoir and Pierre Canal have remained authorized to date.

The acquired lands have remained federal property since Project construction ended and the Bureau of Reclamation has administered them using preferential and nonpreferential leases. Preferential leaseholders are the original land owners (and their descendants) at the time of Project purchase, with holdings of approximately 13,700 acres. The non-preferential leaseholders consist of those who had not previously owned or controlled the land prior to Project purchase, with holdings of approximately 4,700 acres. Throughout the years, all of this land has remained off local property tax rolls. Most of the land is still used for agricultural purposes, while some is not in original condition and contains stock-piled materials, fences, access roads, detours, and other various items.

In order to meet aspects of Section 602 of Public Law 105–277, known as the Cheyenne River Sioux Tribe, Lower Brule Sioux Tribe, and State of South Dakota Terrestrial Wildlife Habitat Restoration Act, the State developed a habitat mitigation plan for the previously mentioned 220,500 acres of lost wildlife habitat. This plan allows for the development of approximately 27,000 acres of wildlife habitat in the State. Transferring approximately 4,700 acres of non-preferential lease lands in the Blunt Reservoir feature to the State Department of Game, Fish and Parks would constitute a step toward satisfying the habitat mitigation obligation.

The goals of H.R. 4301 are to: deauthorize the Blunt Reservoir feature; allow preferential leaseholders the first option to purchase the land they currently lease; and to convey to the State Department of Game, Fish, and Parks nonpreferential leased parcels, unleased parcels, and any parcels not purchased back for the purposes of mitigating lost wildlife habitat. Preferential leaseholders will have five years to purchase the land, via cash or 30 year financing. In order to encourage cash purchases, the legislation fixes the price at 10% below fair market value, as determined by Uniform Appraisal Standards.

Related to a February 8, 2006, Water and Power Subcommittee hearing on H.R. 4301, the State commissioned a study to evaluate the change in land values around the Blunt Reservoir and Pierre Canal feature lands. Between 2000, just after the Blunt Reservoir legislation was first introduced, and 2006, the State's report concluded that agricultural land values have increased 88 percent around the Reservoir and canal feature lands. This substantial increase is consistent with concerns raised at that hearing.

COMMITTEE ACTION

H.R. 4301 was introduced on November 10, 2005, by Congresswoman Stephanie Herseth (D-SD). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Water and Power. On February 8, 2006, the Subcommittee held a hearing on the bill. On June 21, 2006, the Full Resources Committee met to consider the bill. The Subcommittee on Water and Power was discharged from further consideration of the bill by unanimous consent. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section cites the short title of this bill as the "Blunt Reservoir and Pierre Canal Land Conveyance Act of 2005."

Section 2. Blunt Reservoir and Pierre Canal

Subsection (a) defines key terms used in the Act.

Subsection (b) deauthorizes the Blunt Reservoir feature of the Oahe Irrigation Project.

Subsection (c) requires the State to accept land conveyed to it under the bill in "as is" condition, assume responsibility for any outstanding liabilities, and recognize any outstanding obligations associated with expired easements or other rights granted to either feature. The conveyances to the State shall also be subject to the reservations by the United States and the conditions specified in section 667b of title 16, United States Code, for transfer of property to State agencies for wildlife conservation purposes. The conveyances shall be subject to the reservation by the United States of all oil, gas, and mineral rights, to the condition that the property continue to be used for wildlife conservation.

Subsection (d) allows the preferential leaseholders an option to purchase the land they lease within 5 years of enactment. Any purchases shall be from the Commission, acting as an agent for the

Secretary. The leaseholders would have the option of paying cash and receiving a 10 percent discount on the land's value, or paying by installment with a 10 percent down payment and the remainder paid over a 30-year period at 3 percent annual interest. If the preferential leaseholder fails to purchase a parcel within the 5-year period, that parcel would be conveyed to the State to assist in the implementation of the wildlife habitat mitigation plan. Proceeds of the sales shall be deposited as miscellaneous funds in the Treasury and made available, subject to appropriation, to the State for the establishment of a trust fund to pay the county taxes on the lands received by the State Department of Game, Fish, and Parks under the Act.

Subsection (e) directs the Secretary to convey to the South Dakota Department of Game, Fish, and Parks the nonpreferential leased parcels and unleased parcels of the Blunt Reservoir and Pierre Canal to be used for mitigating the wildlife habitat that was lost as a result of the development of the Pick-Sloan project. The Commission would also be authorized, with the Department's concurrence, to allow a person to exchange other land in South Dakota for a nonpreferential lease parcel or unleased parcel at Blunt Reservoir or Pierre Canal. This subsection also reserves to the United States a perpetual easement to the land to allow for a pipeline or other water conveyance structure over, under, across, or through the Pierre Canal Feature.

Subsection (f) releases the United States from liability, except for damages from certain acts of negligence committed prior to the date of conveyance.

Subsection (g) provides that during the interim period prior to the beginning on the date of enactment of this Act and ending on the date of conveyance of the parcel, the Secretary shall continue to lease each parcel under the same lease terms as prior to enactment of this Act.

Subsection (h) authorizes \$750,000 to be appropriated to reimburse the Secretary for expenses incurred in implementing this Act, and such sums as are necessary to reimburse the Commission for expenses incurred implementing this Act.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article IV section 3, clause 2 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill pre-

pared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of this bill would increase direct spending by about \$300,000 in 2007, but also result in \$1.1 million in collections from asset sales, with a net reduction in direct spending of \$800,000 over the 2007–2016 time period.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is 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.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 4301—Blunt Reservoir and Pierre Canal Land Conveyance Act of 2005

Summary: H.R. 4301 would direct the Secretary of the Interior to transfer title to the lands and facilities that make up the non-preferential lease parcels and unleased parcels of the Blunt Reservoir and Pierre Canal in South Dakota to the state. During the five years following enactment, H.R. 4301 would allow any preferential leaseholder to purchase the parcel that is the subject of their lease for cash or on an installment basis. After five years, the bill would direct the Secretary to transfer any remaining parcels to South Dakota. H.R. 4301 would authorize the appropriation of \$750,000 to implement those provisions. The bill also would authorize the appropriation of payments to South Dakota equal to the amount of any proceeds from sales to leaseholder.

Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 4301 would cost about \$2 million in 2007. CBO estimates that enacting H.R. 4301 would increase direct spending by about \$300,000 in 2007. Enacting the bill would also lead to about \$1.1 million in collections from asset sales. Thus, the net impact on direct spending over the 2007–2016 period would be a reduction of \$0.8 million.

H.R. 4301 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Accepting the land conveyance authorized in this bill would be voluntary on the part of South Dakota and any costs to the state would be incurred voluntarily.

Estimated cost to the Federal Government: Subject to the appropriation of the authorized amounts, CBO estimates that implementing H.R. 4301 would cost about \$2 million in 2007. CBO estimates that enacting the bill would increase offsetting receipts by about \$1.1 million in 2007 from land sales and would increase direct spending by about \$300,000 in 2007 for loan subsidies for the installment purchases of certain land parcels in the affected area. The estimated budgetary impact of H.R. 4301 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

By fiscal year, in millions of dollars—					
	2007	2008	2009	2010	2011
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Payments to South Dakota:					
Estimated Authorization Level	0	1.9	0	0	0
Estimated Outlays	0	1.9	0	0	0
CHANGES IN DIRECT SPENDING					
Collections from Land Sales:					
Estimated Budget Authority	-1.1	0	0	0	0
Estimated Outlays	-1.1	0	0	0	0
Loan Subsidy Cost:					
Estimated Budget Authority	0.3	0	0	0	0
Estimated Outlays	0.2	0.1	0	0	0
Total:					
Estimated Budget Authority	-0.8	0	0	0	0
Estimated Outlays	-0.9	0.1	0	0	0

Basis of estimate

Spending subject to appropriation

H.R. 4301 would direct the Secretary of the Interior to transfer title to the lands and facilities that make up the nonpreferential lease parcels and unleased parcels of the Blunt Reservoir and Pierre Canal to South Dakota. During the five years following enactment, H.R. 4301 would allow any preferential leaseholder to purchase the parcel that is the subject of their lease. After such time has expired, the bill would direct the Secretary to transfer any remaining preferential lease parcels to the state. H.R. 4301 would authorize the appropriation of \$750,000 to implement those provisions.

The bill also would authorize the appropriation of federal proceeds to South Dakota from sales to leaseholders. We estimate that by selling parcels to preferential leaseholders, the federal government would collect nearly \$1.1 million in 2007. Thus, subsequent appropriations of that amount to South Dakota would cost \$1.1 million in 2007.

Direct spending

To purchase their leased lands under the bill, preferential leaseholders would pay the value of such lands appraised for agricultural purposes only (i.e., not including recreational value). The bill would allow leaseholders to pay 10 percent less than the appraised value if they pay up front in a lump sum. The bill also would allow those leaseholders whose parcels are valued above \$10,000 to pay in installments over 30 years with an annual interest rate of 3 percent. Based on information from the Bureau of Reclamation, we expect

that over the five-year period, leaseholders would purchase about 14 parcels valued at less than \$10,000 each. We estimate that the government would receive about \$100,000 in 2007 from such sales.

Because of the favorable loan terms under the bill, we expect that leaseholders with parcels valued above \$10,000 would purchase those parcels on an installment basis. Based on information from the Bureau of Reclamation, CBO estimates that the government would collect about \$1 million from the sale of those more-valuable leases in 2007.

The Federal Credit Reform Act of 1990 requires that agencies record the subsidy cost of financing arrangements in the year the assets are sold if payment is deferred for more than 90 days. In effect, H.R. 4301 would allow the Secretary to issue direct loans to the leaseholders with parcels valued about \$10,000. Based on the experience of similar loan programs within the Department of Agriculture, CBO expects that very few purchasers would default on their payments. Because the purchasers would pay annual interest of 3 percent, an amount below the interest rate paid by the Treasury, CBO estimates that the loans under H.R. 4301 would have a subsidy cost of about \$300,000, or 30 percent of the purchase price. Under credit reform procedures, this cost would be recorded in 2007.

Intergovernmental and private-sector impact: H.R. 4301 contains no intergovernmental or private-sector mandates as defined in UMR. Accepting the land conveyance authorized in this bill would be voluntary on the part of South Dakota and any costs to the state would be incurred voluntarily.

Estimate prepared by: Federal Costs: Julie Middleton; Impact on state, local, and tribal governments: Lisa Ramirez-Branum; Impact on the private sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.