

108TH CONGRESS  
1ST SESSION

# S. 426

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IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 2003

Referred to the Committee on Resources

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## 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 2003”.

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 condition of each con-  
12 veyance under subsections (d)(5) and (e), respec-  
13 tively, the State shall 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 Commis-  
8       sion, acting as an agent for the Secretary, the pref-  
9       erential lease parcel that is the subject of the lease.

10          (2) TERMS.—

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

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

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

19                   (II) ten percent of that value.

20           (ii) Installment purchase, with 10 per-  
21       cent of the value of the parcel determined  
22       under paragraph (4) to be paid on the date  
23       of purchase and the remainder to be paid  
24       over not more than 30 years at 3 percent  
25       annual interest.

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

5           (3) OPTION EXERCISE PERIOD.—

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

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

17           (4) VALUATION.—

18           (A) IN GENERAL.—The value of a pref-  
19 erential lease parcel shall be its fair market  
20 value for agricultural purposes determined by  
21 an independent appraisal, exclusive of the value  
22 of private improvements made by the lease-  
23 holders while the land was federally owned be-  
24 fore the date of the enactment of this Act, in

1 conformance with the Uniform Appraisal  
2 Standards for Federal Land Acquisition.

3 (B) FAIR MARKET VALUE.—Any dispute  
4 over the fair market value of a property under  
5 subparagraph (A) shall be resolved in accord-  
6 ance with section 2201.4 of title 43, Code of  
7 Federal Regulations.

8 (5) CONVEYANCE TO THE STATE.—

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

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 (6) USE OF PROCEEDS.—Proceeds of sales of  
23 land under this Act shall be deposited as miscella-  
24 neous funds in the Treasury and such funds shall be  
25 made available, subject to appropriations, to the

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

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

7 (1) CONVEYANCE BY SECRETARY TO STATE.—

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

14 (B) WILDLIFE HABITAT MITIGATION.—

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

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

23 (A) IN GENERAL.—With the concurrence  
24 of the South Dakota Department of Game,  
25 Fish, and Parks, the South Dakota Commission

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

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

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

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

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

25 (f) RELEASE FROM LIABILITY.—

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

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

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

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

24               (2) PROVISION OF PARCEL DESCRIPTIONS.—  
25               Not later than 180 days after the date of enactment

1 of this Act, the Secretary shall provide the State a  
2 full legal description of all preferential lease parcels  
3 and nonpreferential lease parcels that may be con-  
4 veyed under this section.

5 (h) AUTHORIZATION OF APPROPRIATIONS.—There is  
6 authorized to be appropriated to carry out this Act  
7 \$750,000 to reimburse the Secretary for expenses in-  
8 curred in implementing this Act, and such sums as are  
9 necessary to reimburse the Commission for expenses in-  
10 curred implementing this Act, not to exceed 10 percent  
11 of the cost of each transaction conducted under this Act.

Passed the Senate April 3, 2003.

Attest:

EMILY J. REYNOLDS,

*Secretary.*