

Union Calendar No. 199

112TH CONGRESS
1ST SESSION

H. R. 1158

[Report No. 112-299]

To authorize the conveyance of mineral rights by the Secretary of the Interior
in the State of Montana, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2011

Mr. REHBERG introduced the following bill; which was referred to the
Committee on Natural Resources

DECEMBER 1, 2011

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on March 17, 2011]

A BILL

To authorize the conveyance of mineral rights by the Secretary of the Interior in the State of Montana, 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 “Montana Mineral Con-*
5 *veyance Act”.*

6 **SEC. 2. FINDINGS.**

7 *Congress finds that—*

8 *(1) under section 503(a)(2) of the Department of*
9 *the Interior and Related Agencies Appropriations Act,*
10 *1998 (Public Law 105–83; 111 Stat. 1617), the Sec-*
11 *retary of the Interior has conveyed mineral rights in*
12 *certain very large tracts of coal to the State of Mon-*
13 *tana, the tracts of which lie as near as 3 or 4 miles*
14 *east of the Northern Cheyenne Indian Reservation;*

15 *(2) development of the coal tracts and other ex-*
16 *isting and proposed major developments of Federal,*
17 *State, and private energy resources in areas sur-*
18 *rounding the Northern Cheyenne Indian Reservation*
19 *yield substantial public revenues to the State (includ-*
20 *ing political subdivisions of the State), thereby assist-*
21 *ing the State (including political subdivisions of the*
22 *State) in addressing the impacts of the development;*

23 *(3) although the Northern Cheyenne tribal com-*
24 *munity chronically suffers harsh economic conditions*
25 *and severe deficits in public services and facilities, the*

1 *community does not share in any significant portion*
2 *of the public revenues generated by surrounding en-*
3 *ergy development;*

4 *(4) the Northern Cheyenne Tribe has few, if any,*
5 *sources of revenue available to address development*
6 *impacts;*

7 *(5) in 2002, the Tribe brought suit against the*
8 *Secretary, asserting that the proposed conveyances of*
9 *the extensive Federal coal tracts to the State under*
10 *the Department of the Interior and Related Agencies*
11 *Appropriations Act, 1998 (Public Law 105–83; 111*
12 *Stat. 1543) would violate—*

13 *(A) several Federal laws (including regula-*
14 *tions); and*

15 *(B) the Federal trust responsibility to the*
16 *Tribe;*

17 *(6) subsequently, the Tribe withdrew the suit de-*
18 *scribed in paragraph (5) with prejudice, based in sub-*
19 *stantial part on commitments that legislation sub-*
20 *stantially in the form of this Act (and further legisla-*
21 *tion providing funding to the Tribe to address the im-*
22 *pacts of coal development in areas adjoining the Res-*
23 *ervation) would be introduced and pursued with sup-*
24 *port from the State, Great Northern Properties, and*
25 *others;*

1 (7) *the Tribe asserts that the Tribe retains*
 2 *claims against the United States arising from the*
 3 *failure of the United States to acquire mineral rights*
 4 *underlying approximately 5,000 acres of Reservation*
 5 *land when the Reservation, at the direction of Con-*
 6 *gress, was expanded eastward to the Tongue River in*
 7 *1900, the mineral rights of which, as of the date of*
 8 *enactment of this Act, are owned by Great Northern*
 9 *Properties; and*

10 (8) *if the conveyances of mineral rights are car-*
 11 *ried out under this Act, the Tribe will waive all legal*
 12 *claims against the United States arising from the*
 13 *longstanding and continuing loss of the Tribe of min-*
 14 *eral rights relating to the Reservation land.*

15 **SEC. 3. DEFINITIONS.**

16 *In this Act:*

17 (1) *CHEYENNE TRACTS.—The term “Cheyenne*
 18 *tracts” means the aggregate tract of land that—*

19 (A) *is located in the eastern portion of the*
 20 *State within the boundaries of the Reservation;*

21 (B) *comprises approximately 5,000 acres;*

22 (C) *is generally depicted on the map enti-*
 23 *tled “Cheyenne Coal Land Conveyance” and*
 24 *dated April 7, 2010; and*

25 (D) *is comprised of land located in—*

- 1 (i) T. 2 S., R. 44 E., sec. 17;
- 2 (ii) T. 2 S., R. 44 E., sec. 19, $E^{1/2}$ and
- 3 $E^{1/2}W^{1/2}$, Lots 1–4;
- 4 (iii) T. 3 S., R. 44 E., sec. 5, $S^{1/2}$ and
- 5 $S^{1/2}N^{1/2}$, Lots 1–4;
- 6 (iv) T. 3 S., R. 44 E., sec. 7, $E^{1/2}$ and
- 7 $E^{1/2}W^{1/2}$, Lots 1–4;
- 8 (v) T. 3 S., R. 44 E., sec. 9, $N^{1/2}$,
- 9 $SW^{1/4}$, and $W^{1/2}SE^{1/4}$, Lots 2–4;
- 10 (vi) T. 3 S., R. 44 E., sec. 17;
- 11 (vii) T. 3 S., R. 44 E., sec. 19, $E^{1/2}$
- 12 and $E^{1/2}W^{1/2}$, Lots 1–4; and
- 13 (viii) T. 3 S., R. 44 E., sec. 21, $N^{1/2}$,
- 14 $SW^{1/4}$, and $SW^{1/4}SE^{1/4}$, Lots 1 and 2.
- 15 (2) *FEDERAL TRACTS.*—The term “Federal
- 16 tracts” means the unleased tracts of land that—
- 17 (A) are located in the State;
- 18 (B) are located outside of the boundaries of
- 19 the Reservation;
- 20 (C) consist of approximately 5,000 acres;
- 21 (D) are generally depicted on the map enti-
- 22 tled “Federal Coal Land Conveyance” and dated
- 23 March 18, 2011; and
- 24 (E) are comprised of land located in—
- 25 (i) T. 3 S., R. 44 E., sec. 26, $S^{1/2}$;

1 (ii) T. 3 S., R. 44 E., sec. 34;

2 (iii) T. 3 S., R. 45 E., sec. 30,

3 $E^{1/2}SW^{1/4}$ and $SE^{1/4}$, Lots 1–4;

4 (iv) T. 4 S., R. 44 E., sec. 2, $S^{1/2}N^{1/2}$

5 and $S^{1/2}$, Lots 1–4;

6 (v) T. 6 N., R. 27 E., sec. 4, $S^{1/2}N^{1/2}$

7 and $S^{1/2}$, Lots 1–4;

8 (vi) T. 6 N., R. 27 E., sec. 8;

9 (vii) T. 6 N., R. 27 E., sec. 10;

10 (viii) T. 6 N., R. 27 E., sec. 14; and

11 (ix) T. 6 N., R. 27 E., sec. 22.

12 (3) *GREAT NORTHERN PROPERTIES*.—The term
13 “Great Northern Properties” means—

14 (A) the Great Northern Properties Limited
15 Partnership, which is a Delaware limited part-
16 nership; and

17 (B) any successor to the ownership interest
18 of Great Northern Properties in any coal or iron
19 that underlies the Cheyenne tracts.

20 (4) *RESERVATION*.—The term “Reservation”
21 means the Northern Cheyenne Reservation.

22 (5) *SECRETARY*.—The term “Secretary” means
23 the Secretary of the Interior.

24 (6) *STATE*.—The term “State” means the State
25 of Montana.

1 (7) *TRIBE*.—*The term “Tribe” means the North-*
2 *ern Cheyenne Tribe.*

3 **SEC. 4. MINERAL RIGHTS CONVEYANCES.**

4 (a) *IN GENERAL*.—*Notwithstanding any other Federal*
5 *law (including regulations) that otherwise applies to the*
6 *conveyance of any Federal coal right, title, or interest, if*
7 *Great Northern Properties conveys to the Tribe all mineral*
8 *interests of Great Northern Properties underlying the Chey-*
9 *enne tracts in accordance with this Act, the Secretary shall*
10 *convey to Great Northern Properties all right, title, and in-*
11 *terest of the United States in and to the coal underlying*
12 *the Federal tracts.*

13 (b) *IMMUNITIES*.—*The mineral interests underlying*
14 *the Cheyenne tracts conveyed to the Tribe under subsection*
15 *(a) shall not be subject to taxation by the State (including*
16 *any political subdivision of the State).*

17 **SEC. 5. TERMS AND CONDITIONS OF MINERAL CONVEY-**
18 **ANCES.**

19 (a) *WAIVER OF LEGAL CLAIMS*.—*In return for the*
20 *mineral conveyances under section 4(a), the Tribe shall*
21 *waive any and all claims arising from the continuing fail-*
22 *ure of the United States to acquire in trust for the Tribe*
23 *as part of the Reservation the mineral rights underlying*
24 *approximately 5,000 acres of Reservation land (the Chey-*
25 *enne Tracts) as directed by Congress in 1900.*

1 (b) *CONDITION.*—As a condition of the mineral convey-
2 ances by the Secretary under section 4(a), the Tribe and
3 Great Northern Properties shall jointly notify the Secretary
4 in writing that the Tribe and Great Northern Properties
5 have agreed on a formula for the sharing of revenue from
6 coal produced from any portion of the Federal tracts.

7 (c) *COMPLETION OF MINERAL CONVEYANCES.*—Not-
8 withstanding any other Federal law (including regulations)
9 that otherwise applies to the conveyance of any Federal coal
10 right, title, or interest, after satisfaction of the condition
11 described in subsection (b) and not later than 90 days after
12 the date on which the Secretary receives written notification
13 under subsection (b), the mineral conveyances under section
14 4(a) shall be completed in a single transaction.

15 (d) *RESCISSION OF MINERAL CONVEYANCES.*—

16 (1) *IN GENERAL.*—If any portion of the mineral
17 conveyances under section 4(a) is invalidated by a
18 Federal district court, and the judgment of the Fed-
19 eral district court is not vacated or reversed on ap-
20 peal, the Secretary or Great Northern Properties may
21 rescind completely each mineral conveyance under
22 section 4(a).

23 (2) *EFFECT.*—If the Secretary or Great Northern
24 Properties carries out a rescission under paragraph

1 (1), the waiver of the Tribe under subsection (a) shall
2 be considered to be rescinded.

3 **SEC. 6. ELIGIBILITY FOR OTHER FEDERAL BENEFITS.**

4 No benefits provided to the Tribe under this Act shall
5 result in the reduction or denial of any Federal services,
6 benefits, or programs to the Tribe or to any member of the
7 Tribe to which the Tribe or member is entitled or eligible
8 because of—

9 (1) the status of the Tribe as a federally recog-
10 nized Indian tribe; or

11 (2) the status of the member as a member of the
12 Tribe.

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