

112TH CONGRESS
1ST SESSION

S. 647

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

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2011

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

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
9 of the Interior and Related Agencies Appropriations
10 Act, 1998 (Public Law 105–83; 111 Stat. 1617), the

1 Secretary of the Interior has conveyed mineral rights
2 in certain very large tracts of coal to the State of
3 Montana, the tracts of which lie as near as 3 or 4
4 miles east of the Northern Cheyenne Indian Res-
5 ervation;

6 (2) development of the coal tracts and other ex-
7 isting and proposed major developments of Federal,
8 State, and private energy resources in areas sur-
9 rounding the Northern Cheyenne Indian Reservation
10 yield substantial public revenues to the State (in-
11 cluding political subdivisions of the State), thereby
12 assisting the State (including political subdivisions
13 of the State) in addressing the impacts of the devel-
14 opment;

15 (3) although the Northern Cheyenne tribal com-
16 munity chronically suffers harsh economic conditions
17 and severe deficits in public services and facilities,
18 the community does not share in any significant por-
19 tion of the public revenues generated by surrounding
20 energy development;

21 (4) the Northern Cheyenne Tribe has few, if
22 any, sources of revenue available to address develop-
23 ment impacts;

24 (5) in 2002, the Tribe brought suit against the
25 Secretary, asserting that the proposed conveyances

1 of the extensive Federal coal tracts to the State
2 under the Department of the Interior and Related
3 Agencies Appropriations Act, 1998 (Public Law
4 105–83; 111 Stat. 1543) would violate—

5 (A) several Federal laws (including regula-
6 tions); and

7 (B) the Federal trust responsibility to the
8 Tribe;

9 (6) subsequently, the Tribe withdrew the suit
10 described in paragraph (5) with prejudice, based in
11 substantial part on commitments that legislation
12 substantially in the form of this Act (and further
13 legislation providing funding to the Tribe to address
14 the impacts of coal development in areas adjoining
15 the Reservation) would be introduced and pursued
16 with support from the State, Great Northern Prop-
17 erties, and others;

18 (7) the Tribe asserts that the Tribe retains
19 claims against the United States arising from the
20 failure of the United States to acquire mineral
21 rights underlying approximately 5,000 acres of Res-
22 ervation land when the Reservation, at the direction
23 of Congress, was expanded eastward to the Tongue
24 River in 1900, the mineral rights of which, as of the

1 date of enactment of this Act, are owned by Great
2 Northern Properties; and

3 (8) if the conveyances of mineral rights are car-
4 ried out under this Act, the Tribe will waive all legal
5 claims against the United States arising from the
6 longstanding and continuing loss of the Tribe of
7 mineral rights relating to the Reservation land.

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

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

12 (A) is located in the eastern portion of the
13 State within the boundaries of the Reservation;

14 (B) comprises approximately 5,000 acres;

15 (C) is generally depicted on the map enti-
16 tled “Cheyenne Coal Land Conveyance” and
17 dated April 7, 2010; and

18 (D) is comprised of land located in—

19 (i) T. 2 S., R. 44 E., sec. 17;

20 (ii) T. 2 S., R. 44 E., sec. 19, E^{1/2}
21 and E^{1/2}W^{1/2}, Lots 1–4;

22 (iii) T. 3 S., R. 44 E., sec. 5, S^{1/2} and
23 S^{1/2}N^{1/2}, Lots 1–4;

24 (iv) T. 3 S., R. 44 E., sec. 7, E^{1/2}
25 and E^{1/2}W^{1/2}, Lots 1–4;

1 (v) T. 3 S., R. 44 E., sec. 9, N¹/₂,
2 SW¹/₄, and W¹/₂SE¹/₄, Lots 2–4;

3 (vi) T. 3 S., R. 44 E., sec. 17;

4 (vii) T. 3 S., R. 44 E., sec. 19, E¹/₂
5 and E¹/₂W¹/₂, Lots 1–4; and

6 (viii) T. 3 S., R. 44 E., sec. 21, N¹/₂,
7 SW¹/₄, and SW¹/₄ SE¹/₄, Lots 1 and 2.

8 (2) FEDERAL TRACTS.—The term “Federal
9 tracts” means the unleased tracts of land that—

10 (A) are located in the State;

11 (B) are located outside of the boundaries
12 of the Reservation;

13 (C) consist of approximately 5,000 acres;

14 (D) are generally depicted on the map en-
15 titled “Federal Coal Land Conveyance” and
16 dated March 18, 2011; and

17 (E) are comprised of land located in—

18 (i) T. 3 S., R. 44 E., sec. 26, S¹/₂;

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

20 (iii) T. 3 S., R. 45 E., sec. 30,
21 E¹/₂SW¹/₄ and SE¹/₄, Lots 1–4;

22 (iv) T. 4 S., R. 44 E., sec. 2, S¹/₂N¹/₂
23 and S¹/₂, Lots 1–4;

24 (v) T. 6 N., R. 27 E., sec. 4, S¹/₂N¹/₂
25 and S¹/₂, Lots 1–4;

- 1 (vi) T. 6 N., R. 27 E., sec. 8;
 2 (vii) T. 6 N., R. 27 E., sec. 10;
 3 (viii) T. 6 N., R. 27 E., sec. 14; and
 4 (ix) T. 6 N., R. 27 E., sec. 22.

5 (3) GREAT NORTHERN PROPERTIES.—The term
 6 “Great Northern Properties” means—

7 (A) the Great Northern Properties Limited
 8 Partnership, which is a Delaware limited part-
 9 nership; and

10 (B) any successor to the ownership interest
 11 of Great Northern Properties in any coal or
 12 iron that underlies the Cheyenne tracts.

13 (4) RESERVATION.—The term “Reservation”
 14 means the Northern Cheyenne Reservation.

15 (5) SECRETARY.—The term “Secretary” means
 16 the Secretary of the Interior.

17 (6) STATE.—The term “State” means the State
 18 of Montana.

19 (7) TRIBE.—The term “Tribe” means the
 20 Northern Cheyenne Tribe.

21 **SEC. 4. MINERAL RIGHTS CONVEYANCES.**

22 (a) IN GENERAL.—Notwithstanding any other Fed-
 23 eral law (including regulations) that otherwise applies to
 24 the conveyance of any Federal coal right, title, or interest,
 25 if Great Northern Properties conveys to the Tribe all min-

1 eral interests of Great Northern Properties underlying the
2 Cheyenne tracts in accordance with this Act, the Secretary
3 shall convey to Great Northern Properties all right, title,
4 and interest of the United States in and to the coal under-
5 lying the Federal tracts.

6 (b) IMMUNITIES.—The mineral interests underlying
7 the Cheyenne tracts conveyed to the Tribe under sub-
8 section (a) shall not be subject to taxation by the State
9 (including any political subdivision of the State).

10 **SEC. 5. TERMS AND CONDITIONS OF MINERAL CONVEY-**
11 **ANCES.**

12 (a) WAIVER OF LEGAL CLAIMS.—In return for the
13 mineral conveyances under section 4(a), the Tribe shall
14 waive each claim relating to the failure of the United
15 States to acquire in trust for the Tribe as part of the Res-
16 ervation the private mineral interests underlying the Chey-
17 enne tracts.

18 (b) CONDITION.—As a condition of the mineral con-
19 veyances by the Secretary under section 4(a), the Tribe
20 and Great Northern Properties shall jointly notify the Sec-
21 retary in writing that the Tribe and Great Northern Prop-
22 erties have agreed on a formula for the sharing of revenue
23 from coal produced from any portion of the Federal tracts.

24 (c) COMPLETION OF MINERAL CONVEYANCES.—Not-
25 withstanding any other Federal law (including regula-

1 tions) that otherwise applies to the conveyance of any Fed-
2 eral coal right, title, or interest, after satisfaction of the
3 condition described in subsection (b) and not later than
4 90 days after the date on which the Secretary receives
5 written notification under subsection (b), the mineral con-
6 veyances under section 4(a) shall be completed in a single
7 transaction.

8 (d) RESCISSION OF MINERAL CONVEYANCES.—

9 (1) IN GENERAL.—If any portion of the mineral
10 conveyances under section 4(a) is invalidated by a
11 Federal district court, and the judgment of the Fed-
12 eral district court is not vacated or reversed on ap-
13 peal, the Secretary or Great Northern Properties
14 may rescind completely each mineral conveyance
15 under section 4(a).

16 (2) EFFECT.—If the Secretary or Great North-
17 ern Properties carries out a rescission under para-
18 graph (1), the waiver of the Tribe under subsection
19 (a) shall be considered to be rescinded.

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

21 No sums or other benefits provided to the Tribe
22 under this Act shall result in the reduction or denial of
23 any Federal services, benefits, or programs to the Tribe
24 or to any member of the Tribe to which the Tribe or mem-
25 ber is entitled or eligible because of—

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

3 (2) the status of the member as a member of
4 the Tribe.

5 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

6 There are authorized to be appropriated to carry out
7 this Act such sums as are necessary.

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