

Calendar No. 537

115TH CONGRESS
2D SESSION

S. 2074

To establish a procedure for the conveyance of certain Federal property around the Jamestown Reservoir in the State of North Dakota, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 2, 2017

Mr. HOEVEN (for himself and Ms. HEITKAMP) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

JULY 30, 2018

Reported by Ms. MURKOWSKI, with an amendment

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

A BILL

To establish a procedure for the conveyance of certain Federal property around the Jamestown Reservoir in the State of North Dakota, 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. JAMESTOWN RESERVOIR LAND CONVEYANCES.**

4 (a) **DEFINITIONS.**—In this section:

1 (1) BOARD.—The term “Board” means
2 Stutsman County Park Board in Jamestown, North
3 Dakota (or a successor in interest to that entity).

4 (2) FEDERAL LAND.—The term “Federal land”
5 means the approximately 4,494.30 acres of Federal
6 land—

7 (A) associated with the Jamestown Res-
8 ervoir;

9 (B) managed by, or subject to a permit
10 of—

11 (i) the Board;

12 (ii) the State; or

13 (iii) a permittee; and

14 (C) as generally described in the manage-
15 ment agreement numbered ~~15-LM-60-2255~~
16 and entitled “Management Agreement between
17 the Bureau of Reclamation, et al., and the
18 Stutsman County Park Board for the Develop-
19 ment, Management, Operation, and Mainte-
20 nance of Lands and Recreation Facilities at
21 Jamestown Reservoir”.

22 (3) JAMESTOWN RESERVOIR.—The term
23 “Jamestown Reservoir” means the Jamestown Res-
24 ervoir constructed as a unit of the Missouri-Souris
25 Division, Pick-Sloan Missouri Basin Program, as au-

1 thorized by section 9 of the Act of December 22,
 2 1944 (commonly known as the "Flood Control Act
 3 of 1944") (58 Stat. 891, chapter 665).

4 (4) PERMITTEE.—The term "permittee" means
 5 the holder (or any successor in interest to the hold-
 6 er) of a permit for a property.

7 (5) PROPERTY.—The term "property" means
 8 any cabin site located on Federal land for which a
 9 permit is in effect on the date of enactment of this
 10 Act.

11 (6) SECRETARY.—The term "Secretary" means
 12 the Secretary of the Interior, acting through the
 13 Commissioner of Reclamation.

14 (7) STATE.—The term "State" means the State
 15 of North Dakota, acting through the North Dakota
 16 Game and Fish Department.

17 (b) PURCHASE OF PROPERTY BY PERMITTEE;
 18 TRANSFERS TO BOARD AND STATE.—

19 (1) OPTION.—The Secretary shall provide to
 20 the permittee of a property the first option to pur-
 21 chase that property in accordance with paragraph
 22 (3) for fair market value, subject to the condition
 23 that the permittee shall pay to the Board any out-
 24 standing permit fees before the permittee may exer-
 25 cise the option to purchase.

1 (2) DETERMINATION OF FAIR MARKET
2 VALUE.—

3 (A) IN GENERAL.—For purposes of this
4 subsection, the fair market value of a property
5 shall be determined by the Secretary—

6 (i) using a local, third-party ap-
7 praiser;

8 (ii) in accordance with—

9 (I) the Uniform Standards of
10 Professional Appraisal Practice; and

11 (II) the Uniform Appraisal
12 Standards for Federal Land Acquisi-
13 tion;

14 (iii) to the extent appropriate in ac-
15 cordance with the valuation policy of the
16 Department of the Interior; and

17 (iv) valuing the property as unim-
18 proved residential property, excluding all
19 improvements.

20 (B) DISPUTES.—Any dispute regarding
21 the fair market value of a property shall be re-
22 solved in accordance with section 2201.4 of title
23 43, Code of Federal Regulations (or successor
24 regulations).

25 (3) PURCHASE.—

1 (A) IN GENERAL.—On an election by a
2 permittee to exercise the option to purchase a
3 property pursuant to paragraph (1), the Sec-
4 retary shall convey to the permittee, for fair
5 market value—

6 (i) all right, title, and interest of the
7 United States in and to the property, sub-
8 ject to valid existing rights and the oper-
9 ational requirements of the Jamestown
10 Reservoir; and

11 (ii) sole use, perpetual easements
12 for—

13 (I) vehicular access to the prop-
14 erty;

15 (II) access to, and use of, one or
16 more docks for the property;

17 (III) access to, and use of, all
18 boathouses, ramps, retaining walls,
19 and other improvements for which ac-
20 cess is provided in the permit for use
21 of the property as of the date of en-
22 actment of this Act; and

23 (IV) access to water for irriga-
24 tion with a water service contract.

1 (B) PERIOD FOR CONVEYANCE.—The Sec-
 2 retary shall convey to a permittee a property
 3 pursuant to subparagraph (A) during the pe-
 4 riod—

5 (i) beginning on the date of enactment
 6 of this Act; and

7 (ii) ending on the date that is 5 years
 8 after that date of enactment.

9 (4) TRANSFERS TO BOARD AND STATE.—

10 (A) FAILURE TO PURCHASE.—

11 (i) IN GENERAL.—If a permittee fails
 12 to exercise the option to purchase a prop-
 13 erty under paragraph (3) by the date that
 14 is 5 years after the date of enactment of
 15 this Act, the Secretary shall transfer the
 16 property to the Board, subject to clause
 17 (ii), without cost.

18 (ii) SALE BY BOARD OF TRANS-
 19 FERRED PROPERTY.—If the Board sells or
 20 enters into one or more agreements to sell
 21 a property transferred under clause (i)
 22 during the 3-year period beginning on the
 23 date of the transfer, the Board shall pay to
 24 the Secretary all proceeds of the sale that
 25 are in excess of the costs of the Board.

1 ~~(B) CERTAIN OTHER LAND.~~—Effective be-
2 ginning on the date that is 5 years after the
3 date of enactment of this Act, the Secretary
4 shall transfer—

5 (i) to the Board, without cost, Federal
6 land managed by the Board as of that date
7 of enactment, on which no cabin is located;
8 and

9 (ii) to the State, without cost, land
10 leased by the State as of that date of en-
11 actment.

12 ~~(c) OIL, GAS, MINERAL, AND OTHER OUTSTANDING~~
13 ~~RIGHTS.~~—Each conveyance to a permittee, and each
14 transfer to the Board or State, pursuant to subsection (b)
15 shall be made subject to—

16 (1) oil, gas, and other mineral rights reserved
17 of record, as of the date of enactment of this Act,
18 by, or in favor of, the United States or a third
19 party;

20 (2) any permit, license, lease, right-of-use, flow-
21 age easement, or right-of-way of record in, on, over,
22 or across the applicable property or Federal land,
23 whether owned by the United States or a third
24 party, as of the date of enactment of this Act;

1 ~~(3)~~ any reversion back to the United States of
 2 land ~~(other than land described in subsection~~
 3 ~~(b)(4)(A)(i) or land transferred under subsection~~
 4 ~~(b)(4)(B)(i) that is designated by the Secretary as~~
 5 ~~a recreation area as of the date of enactment of this~~
 6 ~~Act) transferred to the Board or State under sub-~~
 7 ~~section (b); if the applicable property is no longer~~
 8 ~~used for the purpose of public access or recreation;~~
 9 and

10 ~~(4)~~ any flowage easement reserved by the
 11 United States to allow full operation of Jamestown
 12 Reservoir for authorized purposes.

13 ~~(d) LIABILITY; TAKING.—~~

14 ~~(1) LIABILITY.—~~The United States shall not be
 15 liable for flood damage to the property of a per-
 16 mittee, the Board, or the State, or for damages aris-
 17 ing out of any act, omission, or occurrence relating
 18 to a lot to which a permit applies, other than for
 19 damages caused by an act or omission of the United
 20 States or an employee, agent, or contractor of the
 21 United States before the date of enactment of this
 22 Act.

23 ~~(2) TAKING.—~~Any temporary flooding or flood
 24 damage to the property of a permittee, the Board,

1 or the State, shall not be considered to be a taking
 2 by the United States.

3 ~~(c) REQUIREMENTS RELATING TO CONVEYANCES~~
 4 ~~AND TRANSFERS.—~~

5 (1) ~~INTERIM REQUIREMENTS.—~~During the pe-
 6 riod beginning on the date of enactment of this Act
 7 and ending on the date of conveyance or transfer of
 8 a property or land, the provisions of the manage-
 9 ment agreement referred to in subsection (a)(2)(C)
 10 that are applicable to the property or land, or to
 11 leases between the State and the Secretary, shall re-
 12 main in force and effect.

13 (2) ~~LEGAL DESCRIPTIONS.—~~Not later than 2
 14 years after the date of enactment of this Act, the
 15 Secretary, in consultation with the Board and the
 16 State, shall provide to the Board, the State, and
 17 each applicable permittee a legal description of all
 18 properties and land that may be conveyed or trans-
 19 ferred pursuant to this section.

20 (3) ~~RESTRICTION ON CONVEYANCE.—~~Effective
 21 beginning on the date of enactment of this Act—

22 (A) a permittee may not build any new
 23 permanent structure below a flood pool ele-
 24 vation of 1,454 feet; and

1 ~~(B)~~ if a permittee builds a structure de-
 2 scribed in subparagraph ~~(A)~~, the property of
 3 the permittee shall revert to the Board.

4 ~~(f) PROCEEDS FROM SALES OF FEDERAL LAND.—~~

5 ~~Any revenues from a sale of Federal land pursuant to this~~
 6 ~~section shall be made available to the Secretary, without~~
 7 ~~further appropriation, for—~~

8 ~~(1) the costs to the Secretary of carrying out~~
 9 ~~this section, including any costs of carrying out sub-~~
 10 ~~sections ~~(b)(2)(A)~~ and ~~(c)(2)~~; and~~

11 ~~(2) deferred maintenance activities relating to~~
 12 ~~the operation of the dam in the Jamestown Res-~~
 13 ~~ervoir.~~

14 **SECTION 1. DEFINITIONS.**

15 *In this Act:*

16 (1) *BOARD.—The term “Board” means the*
 17 *Stutsman County Park Board in Jamestown, North*
 18 *Dakota.*

19 (2) *GAME AND FISH HEADQUARTERS.—The term*
 20 *“game and fish headquarters” means the land de-*
 21 *scribed as “Game and Fish Headquarters” on the*
 22 *Map.*

23 (3) *JAMESTOWN RESERVOIR.—The term “James-*
 24 *town Reservoir” means the Jamestown Reservoir con-*
 25 *structed as a unit of the Missouri-Souris Division,*

1 *Pick-Sloan Missouri Basin Program, as authorized*
2 *by section 9 of the Act of December 22, 1944 (com-*
3 *monly known as the “Flood Control Act of 1944”) (58*
4 *Stat. 891, chapter 665).*

5 (4) *MANAGEMENT AGREEMENT.—The term*
6 *“Management Agreement” means the management*
7 *agreement entitled “Management Agreement between*
8 *the United States of America and Stutsman County*
9 *Park Board for the Management, Development, Oper-*
10 *ation and Maintenance of Recreation and Related*
11 *Improvements and Facilities at Jamestown Reservoir*
12 *Stutsman County, North Dakota”, numbered 15–LM–*
13 *60–2255, and dated February 17, 2015.*

14 (5) *MAP.—The term “Map” means the map pre-*
15 *pared by the Bureau of Reclamation, entitled “James-*
16 *town Reservoir”, and dated May 2018.*

17 (6) *PERMITTED CABIN LAND.—The term “per-*
18 *mitted cabin land” means the land depicted as “Per-*
19 *mitted Cabin Lands” on the Map.*

20 (7) *PROPERTY.—The term “property” means*
21 *any cabin site located on permitted cabin land for*
22 *which a permit is in effect on the date of enactment*
23 *of this Act.*

1 (8) *RECREATION LAND.*—*The term “recreation*
 2 *land” means the land depicted as “Recreation and*
 3 *Public Purpose Lands” on the Map.*

4 (9) *SECRETARY.*—*The term “Secretary” means*
 5 *the Secretary of the Interior, acting through the Com-*
 6 *missioner of Reclamation.*

7 (10) *STATE.*—*The term “State” means the State*
 8 *of North Dakota, acting through the North Dakota*
 9 *Game and Fish Department.*

10 **SEC. 2. CONVEYANCES TO STUTSMAN COUNTY PARK**

11 **BOARD.**

12 (a) *CONVEYANCES TO STUTSMAN COUNTY PARK*
 13 *BOARD.*—

14 (1) *IN GENERAL.*—*Subject to the management re-*
 15 *quirements of paragraph (3) and the easements and*
 16 *reservations under section 4, not later than 5 years*
 17 *after the date of enactment of this Act, the Secretary*
 18 *shall convey to the Board all right, title, and interest*
 19 *of the United States in and to—*

20 (A) *the recreation land; and*

21 (B) *the permitted cabin land.*

22 (2) *COSTS.*—

23 (A) *IN GENERAL.*—*Except as provided in*
 24 *subparagraph (B), the Secretary shall convey the*
 25 *land described in paragraph (1) at no cost.*

1 (B) *TITLE TRANSFER; LAND SURVEYS.*—As
2 a condition of the conveyances under paragraph
3 (1), the Board shall agree to pay all survey and
4 other administrative costs necessary for the prep-
5 aration and completion of any patents for, and
6 transfers of title to, the land described in para-
7 graph (1).

8 (3) *MANAGEMENT.*—

9 (A) *RECREATION LAND.*—The Board shall
10 manage the recreation land conveyed under
11 paragraph (1)—

12 (i) for recreation and public purposes
13 consistent with the Act of June 14, 1926
14 (commonly known as the “Recreation and
15 Public Purposes Act”) (44 Stat. 741, chap-
16 ter 578; 43 U.S.C. 869 et seq.);

17 (ii) for public access;

18 (iii) for fish and wildlife habitat; or

19 (iv) to preserve the natural character
20 of the recreation land.

21 (B) *PERMITTED CABIN LAND.*—The Board
22 shall manage the permitted cabin land conveyed
23 under paragraph (1)—

1 (i) for cabins or recreational residences
 2 in existence as of the date of enactment of
 3 this Act; or

4 (ii) for any of the recreation land
 5 management purposes described in subpara-
 6 graph (A).

7 (4) *HAYING AND GRAZING.*—With respect to
 8 recreation land conveyed under paragraph (1) that is
 9 used for haying or grazing authorized by the Manage-
 10 ment Agreement as of the date of enactment of this
 11 Act, the Board may continue to permit haying and
 12 grazing in a manner that is permissible under the 1
 13 or more haying or grazing contracts in effect as of the
 14 date of enactment of this Act.

15 (b) *REVERSION.*—If a parcel of land conveyed under
 16 subparagraph (A) or (B) of subsection (a)(1) is used in a
 17 manner that is inconsistent with the requirements described
 18 in subparagraph (A) or (B), respectively, of subsection
 19 (a)(3), the parcel of land shall, at the discretion of the Sec-
 20 retary, revert to the United States.

21 (c) *SALE OF PERMITTED CABIN LAND BY BOARD.*—

22 (1) *IN GENERAL.*—If the Board sells any parcel
 23 of permitted cabin land conveyed under subsection
 24 (a)(1)(B), the parcel shall be sold at fair market
 25 value, as determined by a third-party appraiser in

1 *accordance with the Uniform Standards of Profes-*
 2 *sional Appraisal Practice, subject to paragraph (2).*

3 (2) *IMPROVEMENTS.*—*For purposes of an ap-*
 4 *praisal conducted under paragraph (1), any improve-*
 5 *ments on the permitted cabin land made by a permit*
 6 *holder shall not be included in the appraised value of*
 7 *the land.*

8 (3) *PROCEEDS FROM THE SALE OF LAND BY THE*
 9 *BOARD.*—*If the Board sells a parcel of permitted*
 10 *cabin land conveyed under subsection (a)(1)(B), the*
 11 *Board shall pay to the Secretary the amount of any*
 12 *proceeds of the sale that exceed the costs of preparing*
 13 *the sale by the Board.*

14 (d) *AVAILABILITY OF FUNDS TO THE SECRETARY.*—
 15 *Any amounts paid to the Secretary for land conveyed by*
 16 *the Secretary under this Act shall be made available to the*
 17 *Secretary, without further appropriation, for activities re-*
 18 *lating to the operation of the Jamestown Dam and Res-*
 19 *ervoir.*

20 **SEC. 3. CONVEYANCE OF GAME AND FISH HEADQUARTERS**
 21 **TO THE STATE.**

22 (a) *CONVEYANCE OF GAME AND FISH HEAD-*
 23 *QUARTERS.*—*Not later than 5 years after the date of enact-*
 24 *ment of this Act, the Secretary shall convey to the State*
 25 *all right, title, and interest of the United States in and to*

1 *the game and fish headquarters, on the condition that the*
 2 *game and fish headquarters continue to be used as a game*
 3 *and fish headquarters or substantially similar purposes.*

4 (b) *REVERSION.*—*If land conveyed under subsection*
 5 *(a) is used in a manner that is inconsistent with the re-*
 6 *quirements described in that subsection, the land shall, at*
 7 *the discretion of the Secretary, revert to the United States.*

8 **SEC. 4. RESERVATIONS, EASEMENTS, AND OTHER OUT-**
 9 **STANDING RIGHTS.**

10 (a) *IN GENERAL.*—*Each conveyance to the Board or*
 11 *the State pursuant to this Act shall be made subject to—*

12 (1) *valid existing rights;*

13 (2) *operational requirements of the Pick-Sloan*
 14 *Missouri River Basin Program, as authorized by sec-*
 15 *tion 9 of the Act of December 22, 1944 (commonly*
 16 *known as the “Flood Control Act of 1944”) (58 Stat.*
 17 *891, chapter 665), including the Jamestown Res-*
 18 *ervoir;*

19 (3) *any flowage easement reserved by the United*
 20 *States to allow full operation of the Jamestown Res-*
 21 *ervoir for authorized purposes;*

22 (4) *reservations described in the Management*
 23 *Agreement;*

1 (5) oil, gas, and other mineral rights reserved of
2 record, as of the date of enactment of this Act, by, or
3 in favor of, the United States or a third party;

4 (6) any permit, license, lease, right-of-use, flow-
5 age easement, or right-of-way of record in, on, over,
6 or across the applicable property or Federal land,
7 whether owned by the United States or a third party,
8 as of the date of enactment of this Act;

9 (7) a deed restriction that prohibits building any
10 new permanent structure on property below an ele-
11 vation of 1,454 feet; and

12 (8) the granting of applicable easements for—

13 (A) vehicular access to the property; and

14 (B) access to, and use of, all docks, boat-
15 houses, ramps, retaining walls, and other im-
16 provements for which access is provided in the
17 permit for use of the property as of the date of
18 enactment of this Act.

19 (b) *LIABILITY; TAKING.*—

20 (1) *LIABILITY.*—The United States shall not be
21 liable for flood damage to a property subject to a per-
22 mit, the Board, or the State, or for damages arising
23 out of any act, omission, or occurrence relating to a
24 permit holder, the Board, or the State, other than for
25 damages caused by an act or omission of the United

1 *States or an employee, agent, or contractor of the*
2 *United States before the date of enactment of this Act.*

3 (2) *TAKING.*—*Any temporary flooding or flood*
4 *damage to the property of a permit holder, the Board,*
5 *or the State, shall not be considered to be a taking by*
6 *the United States.*

7 ***SEC. 5. INTERIM REQUIREMENTS.***

8 *During the period beginning on the date of enactment*
9 *of this Act and ending on the date of conveyance of a prop-*
10 *erty or parcel of land under this Act, the provisions of the*
11 *Management Agreement that are applicable to the property*
12 *or land, or to leases between the State and the Secretary,*
13 *and any applicable permits, shall remain in force and ef-*
14 *fect.*

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