

## Calendar No. 533

115TH CONGRESS  
2D SESSION**S. 440**

To establish a procedure for the conveyance of certain Federal property  
around the Dickinson Reservoir in the State of North Dakota.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 17 (legislative day, FEBRUARY 16), 2017

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

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**A BILL**

To establish a procedure for the conveyance of certain Fed-  
eral property around the Dickinson Reservoir in the  
State of North Dakota.

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. PATTERSON LAKE LAND CONVEYANCES.**

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

5 ~~(1) DEPARTMENT.—The term “Department”~~

6 ~~means Dickinson Parks & Recreation in Dickinson;~~

1 North Dakota (or a successor in interest to that en-  
2 tity).

3 ~~(2) DICKINSON RESERVOIR.~~—The term “Dick-  
4 inson Reservoir” means the Dickinson Reservoir  
5 constructed as part of the Dickinson Unit, Heart  
6 Division, Pick-Sloan Missouri Basin Program, as au-  
7 thorized by section 9 of the Act of December 22,  
8 1944 (commonly known as the “Flood Control Act  
9 of 1944”) (58 Stat. 891, chapter 665).

10 ~~(3) PERMITTEE.~~—The term “permittee” means  
11 the holder of a permit for a property.

12 ~~(4) PROPERTY.~~—The term “property” means  
13 any one of the cabin sites located on Federal prop-  
14 erty around the Dickinson Reservoir for which a per-  
15 mit is in effect on the date of enactment of this Act.

16 ~~(5) SECRETARY.~~—The term “Secretary” means  
17 the Secretary of the Interior, acting through the  
18 Commissioner of Reclamation.

19 ~~(b) PURCHASE OF PROPERTY BY PERMITTEE;~~  
20 ~~TRANSFERS TO DEPARTMENT.~~—

21 ~~(1) OPTION.~~—The Secretary shall provide to  
22 the permittee of a property the first option to pur-  
23 chase that property in accordance with paragraph  
24 ~~(3)~~ for fair market value, subject to the condition  
25 that the permittee shall pay to the Department any

1 outstanding permit fees before the permittee may ex-  
 2 ercise the option to purchase.

3 ~~(2) DETERMINATION OF FAIR MARKET~~  
 4 ~~VALUE.—~~

5 (A) IN GENERAL.—For purposes of this  
 6 subsection, the fair market value of a property  
 7 shall be determined by a local, third-party ap-  
 8 praiser, valuing the property as unimproved res-  
 9 idential property, excluding all improvements.

10 (B) DISPUTES.—Any dispute regarding  
 11 the fair market value of a property shall be re-  
 12 solved in accordance with section 2201.4 of title  
 13 43, Code of Federal Regulations (or successor  
 14 regulations).

15 ~~(3) PURCHASE.—~~

16 (A) IN GENERAL.—On an election by a  
 17 permittee to exercise the option to purchase a  
 18 property pursuant to paragraph (1), the Sec-  
 19 retary shall convey to the permittee, for fair  
 20 market value—

21 (i) all right, title, and interest of the  
 22 United States in and to the property, sub-  
 23 ject to valid existing rights; and

24 (ii) easements for—

1                   (I) vehicular access to the prop-  
2                   erty;

3                   (II) access to, and use of, a dock  
4                   for the property; and

5                   (III) access to, and use of, all  
6                   boathouses, ramps, retaining walls,  
7                   and other improvements for which ac-  
8                   cess is provided in the permit for use  
9                   of the property as of the date of en-  
10                  actment of this Act.

11                  (B) PERIOD FOR CONVEYANCE.—The Sec-  
12                  retary shall convey to a permittee a property  
13                  pursuant to subparagraph (A) during the pe-  
14                  riod—

15                   (i) beginning on the date of enactment  
16                   of this Act; and

17                   (ii) ending on the date that is 2 years  
18                   after that date of enactment.

19                  (4) TRANSFERS TO DEPARTMENT.—

20                   (A) FAILURE TO PURCHASE.—If a per-  
21                   mittee fails to exercise the option to purchase a  
22                   property under paragraph (3) by the date that  
23                   is 2 years after the date of enactment of this  
24                   Act, the Secretary shall transfer the property to  
25                   the Department, without cost.

1           ~~(B) CERTAIN OTHER LAND.~~—Effective be-  
 2           ginning on the date that is 2 years after the  
 3           date of enactment of this Act, the Secretary  
 4           shall transfer to the Department, without cost,  
 5           land managed by the Department as of the date  
 6           of enactment, on which no cabin is located.

7           ~~(c) OIL, GAS, MINERAL, AND OTHER OUTSTANDING~~  
 8           ~~RIGHTS.~~—Each conveyance to a permittee, and each  
 9           transfer to the Department, pursuant to subsection ~~(b)~~  
 10          shall be made subject to—

11           ~~(1) oil, gas, and other mineral rights reserved~~  
 12           ~~of record, as of the date of enactment of this Act,~~  
 13           ~~by, or in favor of, a third party; and~~

14           ~~(2) any permit, license, lease, right-of-use, or~~  
 15           ~~right-of-way of record in, on, over, or across the ap-~~  
 16           ~~plicable property or land that is outstanding to a~~  
 17           ~~third party as of the date of enactment of this Act.~~

18          ~~(d) LIABILITY; TAKING.—~~

19           ~~(1) LIABILITY.~~—The United States shall not be  
 20           liable for flood damage to the personal property of  
 21           a permittee or for damages arising out of any act,  
 22           omission, or occurrence relating to a lot to which a  
 23           permit applies, other than for damages caused by an  
 24           act or omission of the United States or an employee,

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

3 ~~(2) TAKING.—Any temporary flooding or flood~~  
4 ~~damage to the personal property of a permittee shall~~  
5 ~~not be considered to be a taking by the United~~  
6 ~~States.~~

7 ~~(c) REQUIREMENTS RELATING TO CONVEYANCES~~  
8 ~~AND TRANSFERS.—~~

9 ~~(1) INTERIM REQUIREMENTS.—During the pe-~~  
10 ~~riod beginning on the date of enactment of this Act~~  
11 ~~and ending on the date of conveyance or transfer of~~  
12 ~~a property or land, the provisions of the document~~  
13 ~~entitled “Management Agreement between the Bu-~~  
14 ~~reau of Reclamation, et al., for the Development,~~  
15 ~~Management, Operation, and Maintenance of Lands~~  
16 ~~and Recreation Facilities at Dickinson Reservoir”~~  
17 ~~that are applicable to the property or land shall re-~~  
18 ~~main in force and effect.~~

19 ~~(2) LEGAL DESCRIPTIONS.—Not later than 180~~  
20 ~~days after the date of enactment of this Act, the~~  
21 ~~Secretary, in consultation with the Department,~~  
22 ~~shall provide to the Department a legal description~~  
23 ~~of all properties and land that may be conveyed or~~  
24 ~~transferred pursuant to this section.~~

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

3                   ~~(A)~~ a permittee may not build any new  
 4           permanent structure below an elevation of  
 5           2,430 feet; and

6                   ~~(B)~~ if a permittee builds a structure de-  
 7           scribed in subparagraph ~~(A)~~, the property of  
 8           the permittee shall revert to the Department.

9           ~~(f)~~ PROCEEDS FROM SALES OF FEDERAL LAND.—  
 10          Any revenues from a sale of Federal land pursuant to this  
 11          section shall be made available to the Secretary, without  
 12          further appropriation, for—

13                   ~~(1)~~ the costs to the Secretary of carrying out  
 14          this section; and

15                   ~~(2)~~ deferred maintenance activities relating to  
 16          the operation of the dam in the Dickinson Reservoir.

17   **SECTION 1. DEFINITIONS.**

18          *In this Act:*

19                   (1) *DEPARTMENT.*—The term “Department”  
 20          means *Dickinson Parks & Recreation in Dickinson,*  
 21          *North Dakota.*

22                   (2) *DICKINSON RESERVOIR.*—The term “Dickin-  
 23          son Reservoir” means *the Dickinson Reservoir con-*  
 24          *structed as part of the Dickinson Unit, Heart Divi-*  
 25          *sion, Pick-Sloan Missouri Basin Program, as author-*

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

4            (3) *GAME AND FISH HEADQUARTERS.—The term*  
 5        *“game and fish headquarters” means the approxi-*  
 6        *mately 10 acres of land depicted as “Game and Fish*  
 7        *Headquarters” on the Map.*

8            (4) *MANAGEMENT AGREEMENT.—The term*  
 9        *“Management Agreement” means the management*  
 10       *agreement entitled “Management Agreement between*  
 11       *the Bureau of Reclamation, et al., for the Develop-*  
 12       *ment, Management, Operation, and Maintenance of*  
 13       *Lands and Recreation Facilities at Dickinson Res-*  
 14       *ervoir”, MA No. 07AG602222, Modification No. 1 and*  
 15       *dated March 15, 2017.*

16           (5) *MAP.—The term “Map” means the map pre-*  
 17        *pared by the Bureau of Reclamation, entitled “Dick-*  
 18        *inson Reservoir”, and dated May 2018.*

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

22           (7) *PROPERTY.—The term “property” means*  
 23        *any cabin site located on permitted cabin land for*  
 24        *which a permit is in effect on the date of enactment*  
 25        *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 DICKINSON DEPARTMENT OF***  
 11 ***PARKS AND RECREATION.***

12           (a) *CONVEYANCES TO DICKINSON DEPARTMENT OF*  
 13 *PARKS AND RECREATION.*—

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 Department all right, title, and in-*  
 19           *terest 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 Department shall agree to pay all survey*  
 4           *and other administrative costs necessary for the*  
 5           *preparation and completion of any patents for,*  
 6           *and transfers of title to, the land described in*  
 7           *paragraph (1).*

8           (3) *MANAGEMENT.*—

9           (A) *RECREATION LAND.*—*The Department*  
 10          *shall 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 Depart-*  
 22          *ment shall manage the permitted cabin land con-*  
 23          *veyed 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 Department may continue to permit haying  
 12          and grazing in a manner that is permissible under  
 13          the 1 or more haying or grazing contracts in effect as  
 14          of the 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 DEPART-*  
 22          *MENT.*—

23               (1) *IN GENERAL.*—If the Department sells any  
 24          parcel of permitted cabin land conveyed under sub-  
 25          section (a)(1)(B), the parcel shall be sold at fair mar-

1        *ket value, as determined by a third-party appraiser*  
 2        *in accordance with the Uniform Standards of Profes-*  
 3        *sional Appraisal Practice, subject to paragraph (2).*

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

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

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

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 Depart-*  
 11 *ment or the State pursuant to this Act shall be made subject*  
 12 *to—*

13 *(1) valid existing rights;*

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

19 *(3) any flowage easement reserved by the United*  
 20 *States to allow full operation of Dickinson Reservoir*  
 21 *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 2,430.6 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 Department, or the State, or for damages  
23          arising out of any act, omission, or occurrence relat-  
24          ing to a permit holder, the Department, or the State,  
25          other than for damages caused by an act or omission

1       *of the United States or an employee, agent, or con-*  
2       *tractor of the United States before the date of enact-*  
3       *ment of this Act.*

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

8       **SEC. 5. INTERIM REQUIREMENTS.**

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

Calendar No. 533

115<sup>TH</sup> CONGRESS  
2D Session

**S. 440**

**A BILL**

To establish a procedure for the conveyance of certain Federal property around the Dickinson Reservoir in the State of North Dakota.

JULY 30, 2018

Reported with an amendment