

115TH CONGRESS
1ST 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 introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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:

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

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

4 (A) associated with the Jamestown Res-
 5 ervoir;

6 (B) managed by, or subject to a permit
 7 of—

8 (i) the Board;

9 (ii) the State; or

10 (iii) a permittee; and

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

19 (3) JAMESTOWN RESERVOIR.—The term
 20 “Jamestown Reservoir” means the Jamestown Res-
 21 ervoir constructed as a unit of the Missouri-Souris
 22 Division, Pick-Sloan Missouri Basin Program, as au-
 23 thorized by section 9 of the Act of December 22,
 24 1944 (commonly known as the “Flood Control Act
 25 of 1944”) (58 Stat. 891, chapter 665).

1 (4) PERMITTEE.—The term “permittee” means
2 the holder (or any successor in interest to the hold-
3 er) of a permit for a property.

4 (5) PROPERTY.—The term “property” means
5 any cabin site located on Federal land for which a
6 permit is in effect on the date of enactment of this
7 Act.

8 (6) SECRETARY.—The term “Secretary” means
9 the Secretary of the Interior, acting through the
10 Commissioner of Reclamation.

11 (7) STATE.—The term “State” means the State
12 of North Dakota, acting through the North Dakota
13 Game and Fish Department.

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

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

23 (2) DETERMINATION OF FAIR MARKET
24 VALUE.—

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

(i) using a local, third-party appraiser;

(ii) in accordance with—

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

(II) the Uniform Appraisal Standards for Federal Land Acquisition;

(iii) to the extent appropriate in accordance with the valuation policy of the Department of the Interior; and

(iv) valuing the property as unimproved residential property, excluding all improvements.

(B) DISPUTES.—Any dispute regarding the fair market value of a property shall be resolved in accordance with section 2201.4 of title 43, Code of Federal Regulations (or successor regulations).

(3) PURCHASE.—

(A) IN GENERAL.—On an election by a permittee to exercise the option to purchase a

1 property pursuant to paragraph (1), the Sec-
2 retary shall convey to the permittee, for fair
3 market value—

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

9 (ii) sole use, perpetual easements
10 for—

11 (I) vehicular access to the prop-
12 erty;

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

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

21 (IV) access to water for irriga-
22 tion with a water service contract.

23 (B) PERIOD FOR CONVEYANCE.—The Sec-
24 retary shall convey to a permittee a property

pursuant to subparagraph (A) during the period—

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

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

(4) TRANSFERS TO BOARD AND STATE.—

(A) FAILURE TO PURCHASE.—

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

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

(B) CERTAIN OTHER LAND.—Effective beginning on the date that is 5 years after the

1 date of enactment of this Act, the Secretary
2 shall transfer—

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

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

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

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

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

23 (3) any reversion back to the United States of
24 land (other than land described in subsection
25 (b)(4)(A)(i) or land transferred under subsection

1 (b)(4)(B)(i) that is designated by the Secretary as
2 a recreation area as of the date of enactment of this
3 Act) transferred to the Board or State under sub-
4 section (b), if the applicable property is no longer
5 used for the purpose of public access or recreation;
6 and

7 (4) any flowage easement reserved by the
8 United States to allow full operation of Jamestown
9 Reservoir for authorized purposes.

10 (d) LIABILITY; TAKING.—

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

20 (2) TAKING.—Any temporary flooding or flood
21 damage to the property of a permittee, the Board,
22 or the State, shall not be considered to be a taking
23 by the United States.

24 (e) REQUIREMENTS RELATING TO CONVEYANCES
25 AND TRANSFERS.—

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

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

16 (3) RESTRICTION ON CONVEYANCE.—Effective
17 beginning on the date of enactment of this Act—

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

21 (B) if a permittee builds a structure de-
22 scribed in subparagraph (A), the property of
23 the permittee shall revert to the Board.

24 (f) PROCEEDS FROM SALES OF FEDERAL LAND.—
25 Any revenues from a sale of Federal land pursuant to this

1 section shall be made available to the Secretary, without
2 further appropriation, for—

3 (1) the costs to the Secretary of carrying out
4 this section, including any costs of carrying out sub-
5 sections (b)(2)(A) and (e)(2); and

6 (2) deferred maintenance activities relating to
7 the operation of the dam in the Jamestown Res-
8 ervoir.

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