

Swanson and Hugh Butler Reservoirs Land Conveyances Act

[Public Law 118–185]

[This law has not been amended]

【Currency: This publication is a compilation of the text of Public Law 118–185. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To provide for the conveyance of certain Federal land at Swanson Reservoir and Hugh Butler Reservoir in the State of Nebraska, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Swanson and Hugh Butler Reservoirs Land Conveyances Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **FAIR MARKET VALUE.**—The term “fair market value”, with respect to a specified property right, means the most probable price, as of a specified date, in cash, terms equivalent to cash, or other precisely revealed terms, for which the specified property right should sell after reasonable exposure in a competitive market under all conditions requisite for a fair sale, with the buyer and seller each acting prudently, knowledgeably, and in the self-interest of the buyer or seller, as applicable, and assuming that the buyer and seller are not under undue duress.

(2) **FRONTIER COUNTY.**—The term “Frontier County” means Frontier County, Nebraska, acting through the Board of Commissioners of Frontier County.

(3) **HITCHCOCK COUNTY.**—The term “Hitchcock County” means Hitchcock County, Nebraska, acting through the Board of Commissioners of Hitchcock County.

(4) **HUGH BUTLER RESERVOIR.**—The term “Hugh Butler Reservoir” means the Hugh Butler Lake and Red Willow Dam constructed as part of the Pick-Sloan Missouri Basin Program, Frenchman-Cambridge Division, as authorized by section 9 of

the Act of December 22, 1944 (commonly known as the “Flood Control Act of 1944”) (58 Stat. 891, chapter 665).

(5) LAKEVIEW LODGE MANAGEMENT AGREEMENT.—The term “Lakeview Lodge Management Agreement” means the management agreement entitled “Management Agreement between the Bureau of Reclamation, et al., for the Development, Operation, and Maintenance of a Concession Operation at Swanson Reservoir, Nebraska”, numbered 23-LM-60-4160, and dated November 1, 2023.

(6) LAKEVIEW LODGE PERMITTED CONCESSION LAND.—The term “Lakeview Lodge Permitted Concession Land” means the approximately 21.5 acres of land and water for the operation of a public concession at Swanson Reservoir, as generally depicted on the map prepared by the Bureau of Reclamation entitled “Lakeview Lodge Concession Boundary” and dated August 2023.

(7) RED WILLOW MANAGEMENT AGREEMENT.—The term “Red Willow Management Agreement” means the management agreement entitled “Management Agreement between the Bureau of Reclamation, et al., for the Development, Management, Operation, and Maintenance of a Concession Operation at Hugh Butler Reservoir, Nebraska”, numbered 24-LM-60-5155, and dated March 7, 2024.

(8) RED WILLOW PERMITTED CABIN LAND.—The term “Red Willow Permitted Cabin Land” means the approximately 6.5 acres of land encompassing the 8 permitted cabin lots at the Hugh Butler Reservoir, as generally depicted on the map prepared by the Bureau of Reclamation entitled “Red Willow Cabin Map” and dated March 2024.

(9) RED WILLOW PERMITTED CONCESSION LAND.—The term “Red Willow Permitted Concession Land” means the approximately 23 acres of land and water for the operation of a public service concession at the Hugh Butler Reservoir, as generally depicted on the map prepared by the Bureau of Reclamation entitled “Red Willow Concession Boundary” and dated August 2023.

(10) REQUESTED FEDERAL LAND.—The term “requested Federal land” means each of the following parcels of land, or any subset of those parcels, with respect to which a title transfer agreement is executed:

- (A) The Lakeview Lodge Permitted Concession Land.
- (B) The Red Willow Permitted Cabin Land.
- (C) The Red Willow Permitted Concession Land.
- (D) The Swanson Permitted Cabin Land.
- (E) The Swanson Permitted Concession Land.

(11) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(12) STATE.—The term “State” means the State of Nebraska.

(13) SWANSON MANAGEMENT AGREEMENT.—The term “Swanson Management Agreement” means the management agreement entitled “Management Agreement between the Bureau of Reclamation, et al., for the Development, Management,

Operation, and Maintenance of a Concession Operation at Swanson Reservoir, Nebraska”, numbered 24-LM-60-5154, and dated April 19, 2024.

(14) SWANSON PERMITTED CABIN LAND.—The term “Swanson Permitted Cabin Land” means the approximately 6.2 acres of land encompassing the 11 permitted cabin lots at the Swanson Reservoir, as generally depicted on the map prepared by the Bureau of Reclamation entitled “Swanson Cabin Map” and dated March 2024.

(15) SWANSON PERMITTED CONCESSION LAND.—The term “Swanson Permitted Concession Land” means the approximately 20 acres of land and water for the operation of a public service concession at the Swanson Reservoir, as generally depicted on the map prepared by the Bureau of Reclamation entitled “Swanson Concession Boundary” and dated August 2023.

(16) SWANSON RESERVOIR.—The term “Swanson Reservoir” means the Swanson Reservoir and Trenton Dam constructed as part of the Pick-Sloan Missouri Basin Program, Frenchman-Cambridge Division, as authorized by section 9 of the Act of December 22, 1944 (commonly known as the “Flood Control Act of 1944”) (58 Stat. 891, chapter 665).

(17) TITLE TRANSFER AGREEMENT.—The term “title transfer agreement” means a title transfer agreement entered into under section 3(a)(1) between the Secretary and Frontier County or Hitchcock County, as applicable, that establishes the legal, institutional, and financial terms for the conveyance of the applicable requested Federal land.

SEC. 3. CONVEYANCES OF FEDERAL LAND TO HITCHCOCK COUNTY AND FRONTIER COUNTY, NEBRASKA.

(a) CONVEYANCES TO HITCHCOCK COUNTY AND FRONTIER COUNTY.—

(1) TITLE TRANSFER AGREEMENT.—Subject to paragraphs (2) and (5) and sections 4 and 5, not later than 3 years after the date of enactment of this Act, the Secretary shall make good faith efforts to enter into negotiations for, and enter into, title transfer agreements with each of Hitchcock County and Frontier County—

(A) under which the Secretary shall convey to Hitchcock County or Frontier County, as applicable, all requested right, title, and interest of the United States in and to the applicable requested Federal land;

(B) that provides that, as a condition of the conveyance, the applicable requested Federal land—

- (i) shall be conveyed in whole; and
- (ii) shall not be subdivided; and

(C) that provides a plan for—

(i) a demonstration of—

(I) the technical capability of Hitchcock County or Frontier County, as applicable, to operate and maintain the applicable requested Federal land permanently; and

(II) the ability of Hitchcock County or Frontier County, as applicable, to satisfy financial obli-

gations relating to the applicable requested Federal land; and

(ii) the management by Hitchcock County or Frontier County, as applicable, of the applicable requested Federal land to be conveyed in accordance with the applicable title transfer agreement, including addressing any issues to ensure compliance with applicable State fire, safety, and health codes and standards not later than 2 years after the date of the applicable conveyance.

(2) REQUIREMENT.—Notwithstanding section 8002(3)(B) of the John D. Dingell, Jr. Conservation, Management, and Recreation Act (43 U.S.C. 2902(3)(B)), the Secretary shall negotiate the title transfer agreement under paragraph (1) in accordance with the criteria, terms, and conditions described in subtitle A of title VIII of that Act (43 U.S.C. 2901 et seq.).

(3) OFFER TO CONVEY.—As soon as practicable after the date on which a title transfer agreement is entered into pursuant to paragraph (1), the Secretary shall offer to convey to Hitchcock County or Frontier County, as applicable, all right, title, and interest of the United States in and to the applicable requested Federal land, in accordance with the terms and conditions described in the applicable title transfer agreement.

(4) COSTS.—

(A) CONSIDERATION.—

(i) IN GENERAL.—As consideration for the conveyance of the applicable requested Federal land under paragraph (3), Hitchcock County or Frontier County, as applicable, shall pay to the Secretary, for use in accordance with clause (iii), an amount equal to the fair market value of the applicable requested Federal land, as determined by an appraisal conducted—

(I) in accordance with clause (ii);

(II) by a third-party appraiser approved by the Secretary; and

(III) subject to the management requirements under paragraph (5) and section 4.

(ii) APPRAISAL REQUIREMENTS.—

(I) IN GENERAL.—An appraisal under clause (i) shall be conducted in accordance with the Uniform Standards of Professional Appraisal Practice.

(II) IMPROVEMENTS.—For purposes of clause (i), any improvements to the applicable requested Federal land made by a permit holder shall not be included in the appraised value of the applicable requested Federal land.

(III) RESOLUTION OF DISPUTE.—Any dispute over the fair market value of the applicable requested Federal land under an appraisal conducted under clause (i) shall be resolved in accordance with section 2201.4 of title 43, Code of Federal Regulations (or a successor regulation).

(IV) CONSIDERATION OF REVENUES.—An appraisal under clause (i) shall take into consider-

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ation any future income stream that the United States would have derived from the applicable requested Federal land at the time of the conveyance, including revenues to the United States—

(aa) from existing water service and repayment contracts;

(bb) from known or reasonably foreseeable new contracts or renewals;

(cc) as aid to irrigation; and

(dd) from any other authorized source.

(iii) USE.—Amounts paid under clause (i) shall be available to the Secretary, subject to further appropriation, for activities relating to the operation of the Hugh Butler Reservoir and Swanson Reservoir.

(B) CONVEYANCE COSTS.—As a condition of a conveyance under paragraph (3), Hitchcock County or Frontier County, as applicable, shall be responsible for paying, in advance of the conveyance of the applicable requested Federal land, all survey and other administrative costs, as determined to be necessary by the Secretary, for the preparation and completion of transfer of title to, the applicable requested Federal land.

(5) MANAGEMENT.—Hitchcock County and Frontier County shall each manage the applicable requested Federal land conveyed to Hitchcock County or Frontier County, as applicable, under paragraph (3)—

(A) for substantially the same purposes for which the applicable requested Federal land is being used as of the date of enactment of this Act; or

(B) for—

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

(ii) public access;

(iii) fish and wildlife habitat; or

(iv) the preservation of the natural character of the applicable requested Federal land.

(b) SUBSEQUENT CONVEYANCE OF REQUESTED FEDERAL LAND.—

(1) IN GENERAL.—Except as provided in paragraph (2), on completion of a conveyance to Hitchcock County or Frontier County, as applicable, of the applicable requested Federal land under subsection (a), Hitchcock County or Frontier County, as applicable, may not subsequently reconvey the applicable requested Federal land.

(2) EXCEPTIONS.—Notwithstanding paragraph (1), Hitchcock County or Frontier County, as applicable, may subsequently convey the applicable requested Federal land if—

(A) the applicable requested Federal land is reconveyed, at no cost, to an entity located in the State that is recognized by the State as a publicly owned or governmental organization, including—

(i) a State agency;

(ii) a county, city, village, or township in, or political subdivision of, the State;

(iii) a natural resource district; and

(iv) an irrigation or reclamation district;

(B) Hitchcock County or Frontier County, as applicable, has demonstrated an impending adverse impact if the applicable requested Federal land is not reconveyed;

(C) the entity to which the applicable requested Federal land would be reconveyed has the capacity to continue to manage the applicable requested Federal land for the same purposes for which the applicable requested Federal land has been managed as of the date of enactment of this Act; and

(D) the applicable requested Federal land to be reconveyed would continue to be available for public access.

(3) FUTURE CONVEYANCES.—A subsequent conveyance of requested Federal land shall be subject to the requirements of this subsection and subsection (a)(5).

SEC. 4. EFFECT ON RESERVATIONS, EASEMENTS, AND OTHER RIGHTS.

(a) IN GENERAL.—A conveyance under section 3(a) shall be subject to—

(1) valid existing rights;

(2) operational requirements of the Pick-Sloan Missouri River Basin Program authorized by section 9 of the Act of December 22, 1944 (commonly known as the “Flood Control Act of 1944”) (58 Stat. 891, chapter 665), including Swanson Reservoir and Hugh Butler Reservoir;

(3) any flowage easement reserved by the United States to allow full operation of the Swanson Reservoir and Hugh Butler Reservoir, as applicable, for authorized purposes;

(4) any applicable reservations described in the Lakeview Lodge Management Agreement, Red Willow Management Agreement, or Swanson Management Agreement, as applicable;

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

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

(7) as applicable, a deed restriction that prohibits building any new permanent structure on the applicable requested Federal land below an elevation of—

(A) 2,785 feet at Swanson Reservoir; or

(B) 2,628 feet at Hugh Butler Reservoir; and

(8) the granting of applicable easements for—

(A) vehicular access to the applicable requested Federal land; and

(B) access to, and use of, all docks, boathouses, ramps, retaining walls, and other improvements for which access is provided in a permit for the use of the applicable re-

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requested Federal land as of the date of enactment of this Act.

(b) **LIABILITY; TAKING.**—

(1) **LIABILITY.**—The United States shall not be liable for flood damage to a property, Hitchcock County, or Frontier County, or for damages arising out of any act, omission, or occurrence relating to a permit holder, Hitchcock County, or Frontier County, other than for damages caused by an act or omission of the United States or an employee, agent, or contractor of the United States before the date of enactment of this Act.

(2) **HOLD HARMLESS.**—Hitchcock County, Frontier County, and any entity to which requested Federal land is subsequently conveyed pursuant to section 3(b)(2) shall agree to indemnify and hold harmless the United States for all claims by Hitchcock County, Frontier County, or others arising from—

(A) the design, construction, operation, maintenance, or replacement of Red Willow Dam, Hugh Butler Reservoir, Trenton Dam, or Swanson Reservoir;

(B) the survey of claims, description of claims, delineation of boundaries, conveyance documents, conveyance process, and recording of deeds associated with a conveyance under this Act; or

(C) any damages associated with a structure or land that may be displaced in a flood event.

(3) **NO ADDITIONAL LIABILITY.**—Nothing in this Act increases the liability of the United States beyond the liability provided under chapter 171 of title 28, United States Code (commonly known as the “Federal Tort Claims Act”).

(4) **TAKING.**—Any temporary flooding or flood damage to a property, Hitchcock County, or Frontier County, shall not be considered to be a taking by the United States.

SEC. 5. INTERIM REQUIREMENTS.

(a) **IN GENERAL.**—During the period beginning on the date of enactment of this Act and ending on the date that is the later of the date that is 3 years after the date of enactment of this Act or the date of conveyance of the applicable requested Federal land under section 3(a), the provisions of the Lakeview Lodge Management Agreement, Red Willow Management Agreement, and Swanson Management Agreement, as applicable, and any applicable permits, shall remain in force and effect.

(b) **EFFECT OF FAILURE TO ENTER INTO TITLE TRANSFER AGREEMENT.**—If, by the date that is 3 years after the date of enactment of this Act, Hitchcock County or Frontier County, as applicable, have not entered into a title transfer agreement with the Secretary under section 3(a)(1), the Secretary shall manage any of the Lakeview Lodge Permitted Concession Land, the Red Willow Permitted Cabin Land, the Red Willow Permitted Concession Land, the Swanson Permitted Cabin Land, and the Swanson Permitted Concession Land, as applicable, that is not subject to a title transfer agreement in accordance with applicable law.