

115TH CONGRESS  
2D SESSION

# S. 440

---

## AN ACT

To establish a procedure for the conveyance of certain Federal 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,*

1 **SECTION 1. DEFINITIONS.**

2 In this Act:

3 (1) DEPARTMENT.—The term “Department”  
4 means Dickinson Parks & Recreation in Dickinson,  
5 North Dakota.

6 (2) DICKINSON RESERVOIR.—The term “Dick-  
7 inson Reservoir” means the Dickinson Reservoir  
8 constructed as part of the Dickinson Unit, Heart  
9 Division, Pick-Sloan Missouri Basin Program, as au-  
10 thorized by section 9 of the Act of December 22,  
11 1944 (commonly known as the “Flood Control Act  
12 of 1944”) (58 Stat. 891, chapter 665).

13 (3) GAME AND FISH HEADQUARTERS.—The  
14 term “game and fish headquarters” means the ap-  
15 proximately 10 acres of land depicted as “Game and  
16 Fish Headquarters” on the Map.

17 (4) MANAGEMENT AGREEMENT.—The term  
18 “Management Agreement” means the management  
19 agreement entitled “Management Agreement be-  
20 tween the Bureau of Reclamation, et al., for the De-  
21 velopment, Management, Operation, and Mainte-  
22 nance of Lands and Recreation Facilities at Dickin-  
23 son Reservoir”, MA No. 07AG602222, Modification  
24 No. 1 and dated March 15, 2017.

1           (5) MAP.—The term “Map” means the map  
2 prepared by the Bureau of Reclamation, entitled  
3 “Dickinson Reservoir”, and dated May 2018.

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

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

11           (8) RECREATION LAND.—The term “recreation  
12 land” means the land depicted as “Recreation and  
13 Public Purpose Lands” on the Map.

14           (9) SECRETARY.—The term “Secretary” means  
15 the Secretary of the Interior, acting through the  
16 Commissioner of Reclamation.

17           (10) STATE.—The term “State” means the  
18 State of North Dakota, acting through the North  
19 Dakota Game and Fish Department.

20 **SEC. 2. CONVEYANCES TO DICKINSON DEPARTMENT OF**  
21 **PARKS AND RECREATION.**

22           (a) CONVEYANCES TO DICKINSON DEPARTMENT OF  
23 PARKS AND RECREATION.—

24           (1) IN GENERAL.—Subject to the management  
25 requirements of paragraph (3) and the easements

1 and reservations under section 4, not later than 5  
2 years after the date of enactment of this Act, the  
3 Secretary shall convey to the Department all right,  
4 title, and interest of the United States in and to—

5 (A) the recreation land; and

6 (B) the permitted cabin land.

7 (2) COSTS.—

8 (A) IN GENERAL.—Except as provided in  
9 subparagraph (B), the Secretary shall convey  
10 the land described in paragraph (1) at no cost.

11 (B) TITLE TRANSFER; LAND SURVEYS.—  
12 As a condition of the conveyances under para-  
13 graph (1), the Department shall agree to pay  
14 all survey and other administrative costs nec-  
15 essary for the preparation and completion of  
16 any patents for, and transfers of title to, the  
17 land described in paragraph (1).

18 (3) MANAGEMENT.—

19 (A) RECREATION LAND.—The Department  
20 shall manage the recreation land conveyed  
21 under paragraph (1)—

22 (i) for recreation and public purposes  
23 consistent with the Act of June 14, 1926  
24 (commonly known as the “Recreation and

1 Public Purposes Act”) (44 Stat. 741,  
2 chapter 578; 43 U.S.C. 869 et seq.);

3 (ii) for public access;

4 (iii) for fish and wildlife habitat; or

5 (iv) to preserve the natural character  
6 of the recreation land.

7 (B) PERMITTED CABIN LAND.—The De-  
8 partment shall manage the permitted cabin land  
9 conveyed under paragraph (1)—

10 (i) for cabins or recreational resi-  
11 dences in existence as of the date of enact-  
12 ment of this Act; or

13 (ii) for any of the recreation land  
14 management purposes described in sub-  
15 paragraph (A).

16 (4) HAYING AND GRAZING.—With respect to  
17 recreation land conveyed under paragraph (1) that is  
18 used for haying or grazing authorized by the Man-  
19 agement Agreement as of the date of enactment of  
20 this Act, the Department may continue to permit  
21 haying and grazing in a manner that is permissible  
22 under the 1 or more haying or grazing contracts in  
23 effect as of the date of enactment of this Act.

24 (b) REVERSION.—If a parcel of land conveyed under  
25 subparagraph (A) or (B) of subsection (a)(1) is used in

1 a manner that is inconsistent with the requirements de-  
2 scribed in subparagraph (A) or (B), respectively, of sub-  
3 section (a)(3), the parcel of land shall, at the discretion  
4 of the Secretary, revert to the United States.

5 (c) SALE OF PERMITTED CABIN LAND BY DEPART-  
6 MENT.—

7 (1) IN GENERAL.—If the Department sells any  
8 parcel of permitted cabin land conveyed under sub-  
9 section (a)(1)(B), the parcel shall be sold at fair  
10 market value, as determined by a third-party ap-  
11 praiser in accordance with the Uniform Standards of  
12 Professional Appraisal Practice, subject to para-  
13 graph (2).

14 (2) IMPROVEMENTS.—For purposes of an ap-  
15 praisal conducted under paragraph (1), any improve-  
16 ments on the permitted cabin land made by the per-  
17 mit holder shall not be included in the appraised  
18 value of the land.

19 (3) PROCEEDS FROM THE SALE OF LAND BY  
20 THE DEPARTMENT.—If the Department sells a par-  
21 cel of permitted cabin land conveyed under sub-  
22 section (a)(1)(B), the Department shall pay to the  
23 Secretary the amount of any proceeds of the sale  
24 that exceed the costs of preparing the sale by the  
25 Department.

1 (d) AVAILABILITY OF FUNDS TO THE SECRETARY.—  
2 Any amounts paid to the Secretary for land conveyed by  
3 the Secretary under this Act shall be made available to  
4 the Secretary, without further appropriation, for activities  
5 relating to the operation of the Dickinson Dam and Res-  
6 ervoir.

7 **SEC. 3. CONVEYANCE OF GAME AND FISH HEADQUARTERS**  
8 **TO THE STATE.**

9 (a) CONVEYANCE OF GAME AND FISH HEAD-  
10 QUARTERS.—Not later than 5 years after the date of en-  
11 actment of this Act, the Secretary shall convey to the  
12 State all right, title, and interest of the United States in  
13 and to the game and fish headquarters, on the condition  
14 that the game and fish headquarters continue to be used  
15 as a game and fish headquarters or substantially similar  
16 purposes.

17 (b) REVERSION.—If land conveyed under subsection  
18 (a) is used in a manner that is inconsistent with the re-  
19 quirements described in that subsection, the land shall, at  
20 the discretion of the Secretary, revert to the United  
21 States.

1 **SEC. 4. RESERVATIONS, EASEMENTS, AND OTHER OUT-**  
2 **STANDING RIGHTS.**

3 (a) IN GENERAL.—Each conveyance to the Depart-  
4 ment or the State pursuant to this Act shall be made sub-  
5 ject to—

6 (1) valid existing rights;

7 (2) operational requirements of the Pick-Sloan  
8 Missouri River Basin Program, as authorized by sec-  
9 tion 9 of the Act of December 22, 1944 (commonly  
10 known as the “Flood Control Act of 1944”) (58  
11 Stat. 891, chapter 665), including the Dickinson  
12 Reservoir;

13 (3) any flowage easement reserved by the  
14 United States to allow full operation of Dickinson  
15 Reservoir for authorized purposes;

16 (4) reservations described in the Management  
17 Agreement;

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

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

1           (7) a deed restriction that prohibits building  
2 any new permanent structure on property below an  
3 elevation of 2,430.6 feet; and

4           (8) the granting of applicable easements for—

5                 (A) vehicular access to the property; and

6                 (B) access to, and use of, all docks, boat-  
7 houses, ramps, retaining walls, and other im-  
8 provements for which access is provided in the  
9 permit for use of the property as of the date of  
10 enactment of this Act.

11         (b) LIABILITY; TAKING.—

12           (1) LIABILITY.—The United States shall not be  
13 liable for flood damage to a property subject to a  
14 permit, the Department, or the State, or for dam-  
15 ages arising out of any act, omission, or occurrence  
16 relating to a permit holder, the Department, or the  
17 State, other than for damages caused by an act or  
18 omission of the United States or an employee, agent,  
19 or contractor of the United States before the date of  
20 enactment of this Act.

21           (2) TAKING.—Any temporary flooding or flood  
22 damage to the property of a permit holder, the De-  
23 partment, or the State, shall not be considered to be  
24 a taking by the United States.

1 **SEC. 5. INTERIM REQUIREMENTS.**

2       During the period beginning on the date of enactment  
3 of this Act and ending on the date of conveyance of a prop-  
4 erty or parcel of land under this Act, the provisions of  
5 the Management Agreement that are applicable to the  
6 property or land, or to leases between the State and the  
7 Secretary, and any applicable permits, shall remain in  
8 force and effect.

      Passed the Senate October 4, 2018.

Attest:

*Secretary.*



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

**S. 440**

---

**AN ACT**

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