

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

S. 440

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

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. DEFINITIONS.**

4 In this Act:

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

8 (2) DICKINSON RESERVOIR.—The term “Dick-
9 inson Reservoir” means the Dickinson Reservoir
10 constructed as part of the Dickinson Unit, Heart
11 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 (3) GAME AND FISH HEADQUARTERS.—The
5 term “game and fish headquarters” means the ap-
6 proximately 10 acres of land depicted as “Game and
7 Fish Headquarters” on the Map.

8 (4) MANAGEMENT AGREEMENT.—The term
9 “Management Agreement” means the management
10 agreement entitled “Management Agreement be-
11 tween the Bureau of Reclamation, et al., for the De-
12 velopment, Management, Operation, and Mainte-
13 nance of Lands and Recreation Facilities at Dickin-
14 son Reservoir”, MA No. 07AG602222, Modification
15 No. 1 and dated March 15, 2017.

16 (5) MAP.—The term “Map” means the map
17 prepared by the Bureau of Reclamation, entitled
18 “Dickinson 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
6 Commissioner of Reclamation.

7 (10) STATE.—The term “State” means the
8 State of North Dakota, acting through the North
9 Dakota 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
15 requirements of paragraph (3) and the easements
16 and reservations under section 4, not later than 5
17 years after the date of enactment of this Act, the
18 Secretary shall convey to the Department all right,
19 title, and interest 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
25 the land described in paragraph (1) at no cost.

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

8 (3) MANAGEMENT.—

9 (A) RECREATION LAND.—The Department
10 shall manage the recreation land conveyed
11 under 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,
16 chapter 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 De-
22 partment shall manage the permitted cabin land
23 conveyed under paragraph (1)—

1 (i) for cabins or recreational resi-
2 dences in existence as of the date of enact-
3 ment of this Act; or

4 (ii) for any of the recreation land
5 management purposes described in sub-
6 paragraph (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 Man-
10 agement Agreement as of the date of enactment of
11 this Act, the Department may continue to permit
12 haying and grazing in a manner that is permissible
13 under the 1 or more haying or grazing contracts in
14 effect as 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
17 a manner that is inconsistent with the requirements de-
18 scribed in subparagraph (A) or (B), respectively, of sub-
19 section (a)(3), the parcel of land shall, at the discretion
20 of the Secretary, 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

1 market value, as determined by a third-party ap-
2 praiser in accordance with the Uniform Standards of
3 Professional Appraisal Practice, subject to para-
4 graph (2).

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

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

17 (d) AVAILABILITY OF FUNDS TO THE SECRETARY.—
18 Any amounts paid to the Secretary for land conveyed by
19 the Secretary under this Act shall be made available to
20 the Secretary, without further appropriation, for activities
21 relating to the operation of the Dickinson Dam and Res-
22 ervoir.

1 **SEC. 3. CONVEYANCE OF GAME AND FISH HEADQUARTERS**
2 **TO THE STATE.**

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

11 (b) REVERSION.—If land conveyed under subsection
12 (a) is used in a manner that is inconsistent with the re-
13 quirements described in that subsection, the land shall, at
14 the discretion of the Secretary, revert to the United
15 States.

16 **SEC. 4. RESERVATIONS, EASEMENTS, AND OTHER OUT-**
17 **STANDING RIGHTS.**

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

21 (1) valid existing rights;

22 (2) operational requirements of the Pick-Sloan
23 Missouri River Basin Program, as authorized by sec-
24 tion 9 of the Act of December 22, 1944 (commonly
25 known as the “Flood Control Act of 1944”) (58

1 Stat. 891, chapter 665), including the Dickinson
2 Reservoir;

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

6 (4) reservations described in the Management
7 Agreement;

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

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

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

20 (8) the granting of applicable easements for—

21 (A) vehicular access to the property; and

22 (B) access to, and use of, all docks, boat-
23 houses, ramps, retaining walls, and other im-
24 provements for which access is provided in the

1 permit for use of the property as of the date of
2 enactment of this Act.

3 (b) LIABILITY; TAKING.—

4 (1) LIABILITY.—The United States shall not be
5 liable for flood damage to a property subject to a
6 permit, the Department, or the State, or for dam-
7 ages arising out of any act, omission, or occurrence
8 relating to a permit holder, the Department, or the
9 State, other than for damages caused by an act or
10 omission of the United States or an employee, agent,
11 or contractor of the United States before the date of
12 enactment of this Act.

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

17 **SEC. 5. INTERIM REQUIREMENTS.**

18 During the period beginning on the date of enactment
19 of this Act and ending on the date of conveyance of a prop-
20 erty or parcel of land under this Act, the provisions of
21 the Management Agreement that are applicable to the
22 property or land, or to leases between the State and the
23 Secretary, and any applicable permits, shall remain in
24 force and effect.