

**Statement of Austin Ewell
Deputy Assistant Secretary for Water and Science
U.S. Department of the Interior**

**Before the
Committee on Natural Resources
Water, Power, and Oceans Subcommittee
U.S. House of Representatives**

**on H.R. 6038, a bill to establish a procedure for the conveyance of certain Federal property
around the Dickinson Reservoir in the State of North Dakota.**

July 11, 2018

Chairman Gosar, Ranking Member Huffman, and Members of the Subcommittee, I am Austin Ewell, Deputy Assistant Secretary for Water and Science at the Department of the Interior (Department). Thank you for the opportunity to provide the view of the Department on H.R. 6038, a bill to establish a procedure for the conveyance of certain Federal property around the Dickinson Reservoir in the State of North Dakota.

We have worked closely with the authors of this bill and its companion legislation in the Senate and are pleased that they have adopted many of the Department's suggested modifications. My testimony offers several additional changes we would like to see in the bill and respectfully ask that they be considered as this legislation works its way toward enactment.

As the Department testified on the Senate companion measure, the Department does not support the wide-scale sale or transfer of Federal lands. H.R. 6038; however, recognizes the importance of managing the recreation land (as defined in Section 1(8)) for recreation and public purposes, while providing a path for current permitted cabin owners and the Dickinson Parks and Recreation Department to take ownership of certain Federal lands, allowing flexible management of the lands to meet local needs and alleviate the administrative oversight and management of the land.

The Flood Control Act of 1944 authorized construction of Dickinson Dam and Reservoir (Project) as part of the Dickinson Unit, Heart Division, Pick-Sloan Missouri Basin Program. Federal lands were acquired for Project purposes which include municipal water supply, irrigation with flood control, and recreation benefits. The Project provided municipal water to the City of Dickinson until 1991 when the City switched its water supply to the Southwest Pipeline Project. There are currently two water service contracts associated with the Project, one with Dickinson Parks and Recreation and one with an irrigation district downstream of the Reservoir.

The current management agreement between Reclamation and Dickinson Parks and Recreation for operation and maintenance of most of the lands around the Reservoir includes the area for 41 permitted exclusive use cabins occupied year-round (approximately 25 acres) as well as

additional lands dedicated to recreation, and wildlife management (approximately 2,434 acres). In addition to lands managed by Dickinson Parks and Recreation, Reclamation leases a 10-acre parcel to the North Dakota Game and Fish Department (NDG&F) for the Southwest District Headquarters. In 2013, Reclamation's Dakotas Area Office (DKAO) requested a fair market appraisal of the rates for the exclusive use cabins be conducted pursuant to the Code of Federal Regulations related to Use of Bureau of Reclamation Land, Facilities, and Waterbodies (43 CFR 429). As required by Department policy, the appraisals were conducted by the Department of the Interior's Office of Valuation Services for all reservoirs with exclusive use under the administration of DKAO, resulting in the need to raise rates at all areas to recover fair market value. The results of the appraisal were presented to the respective managing partners in 2016.

Section 1 of H.R. 6038 defines Map, Permitted Cabin Land, and Recreation Land to identify lands to transfer. The map referenced was prepared by Reclamation for illustration purposes based on the best information currently available. We recommend revising the description of Permitted Cabin Land and Recreation Land as those lands generally depicted on the map and those acquired for Dickinson Reservoir and managed by Dickinson Parks and Recreation Department as determined by Reclamation. This will allow the proper transfer of the lands should a title or records search find a discrepancy in the map.

Section 2(c) of H.R. 6038 provides for the fair market value of a property to be determined by a third-party appraiser, valuing the property as unimproved residential property, excluding all improvements. The Department recommends that the bill be amended to include a requirement for review of the third-party appraisal by the Office of Valuation Services as specified in section 2201.4 of title 43, Code of Federal Regulations (or successor regulations) to ensure that the third-party appraisal credibly represents the fair market value of the property being conveyed.

Section 2(c)3 and 2(d) of H.R. 6038 provides that proceeds for the sale of land that exceed the costs of preparing the sale by the Dickinson Parks & Recreation be made available to the Secretary, without further appropriation, for activities relating to the operation of the Dickinson Dam and Reservoir. The Department has concerns that the language may not adequately ensure that the Government receives all such proceeds for Permitted Cabin Land conveyed to a permittee. The Department is willing to work with the Committee to amend the language to meet the author's intent.

The Department is pleased to offer these suggested modifications and would be happy to continue our work with the sponsors to achieve our mutual goals.

This concludes my written statement.

**Statement of Austin Ewell
Deputy Assistant Secretary for Water and Science
U.S. Department of the Interior**

**Before the
Committee on Natural Resources
Water, Power, and Oceans Subcommittee
U.S. House of Representatives**

**on H.R. 6039, A bill to establish a procedure for the conveyance of certain Federal property
around the Jamestown Reservoir in the State of North Dakota.**

July 11, 2018

Chairman Gosar, Ranking Member Huffman, and Members of the Subcommittee, I am Austin Ewell, Deputy Assistant Secretary for Water and Science at the Department of the Interior (Department). Thank you for the opportunity to provide the views of the Department on HR 6039, a bill to establish a procedure for the conveyance of certain Federal property around the Jamestown Reservoir in the State of North Dakota.

We have worked closely with the authors of this bill and its companion legislation in the Senate and are pleased that they have adopted many of the Department's suggested modifications. My testimony offers several additional changes we would like to see in the bill and respectfully ask that they be considered as this legislation works its way toward enactment.

As the Department testified on the Senate companion measure, the Department does not support the wide-scale sale or transfer of Federal lands. HR 6039; however, recognizes the importance of managing the recreation land (as defined in Section 1(8)) for recreation and public purposes, while providing a path for current permitted cabin owners and the Stutsman County Park Board to take ownership of certain Federal lands, allowing flexible management of the lands to meet local needs and alleviate the Department's administrative oversight and management of the land.

The Bureau of Reclamation has worked with the sponsors of this legislation to provide technical modifications to add additional clarity and protections. We look forward to working with the sponsor and the Committee to ensure proposals of this nature preserve access and recreation for future generations to come.

The Flood Control Act of 1944 authorized construction of Jamestown Dam and Reservoir (Project) as part of the Garrison Diversion Unit, Missouri-Souris Division, Pick-Sloan Missouri Basin Program. Federal lands were acquired for Project purposes which include municipal water supply, irrigation with flood control, and recreation benefits. The Project provided extensive flood control benefits for Jamestown and downstream areas. There are currently two water service contracts associated with the project, one with an individual and one with an irrigation district downstream of the reservoir.

The current management agreement between Reclamation and Stutsman County Park Board for operation and maintenance of most of the lands around the reservoir includes the area for 71 permitted exclusive use cabins -- 30 occupied year-round, and 41 occupied seasonally (approximately 73 acres), as well as additional lands dedicated to recreation and wildlife management (approximately 4,421 acres). In addition to lands managed by Stutsman County Park Board, Reclamation leases a 6-acre parcel to the North Dakota Game and Fish Department (NDG&F) for their Regional Headquarters. In 2013, Reclamation's Dakotas Area Office (DKAO) requested a fair market appraisal of the rates for the exclusive use cabins be conducted pursuant to the Code of Federal Regulations related to Use of Bureau of Reclamation Land, Facilities, and Waterbodies (43 CFR 429). As required by Department policy, the appraisals were conducted by the Department of the Interior's Office of Valuation Services for all reservoirs with exclusive use under the administration of DKAO, resulting in the need to raise rates at all areas to recover fair market value. The results of the appraisal were presented to the respective managing partners in 2016.

Section 1 (5) of H.R. 6038 defines Map, Permitted Cabin Land, and Recreation Land to identify lands to transfer. The map referenced was prepared by Reclamation for illustration purposes based on the best information currently available. We recommend revising the description of Permitted Cabin Land and Recreation Land as those lands generally depicted on the map and those acquired for Jamestown Reservoir and managed by Stutsman County Park Board as determined by Reclamation. This will allow the proper transfer of the lands should a title or records search find a discrepancy in the map.

Section 2(c) of H.R. 6039 provides for the fair market value of a property to be determined by a third-party appraiser, valuing the property as unimproved residential property, excluding all improvements. The Department recommends that the bill be amended to include a requirement for review of the third-party appraisal by the Office of Valuation Services as specified in section 2201.4 of title 43, Code of Federal Regulations (or successor regulations) to ensure that the third party appraisal credibly represents the fair market value of the property being conveyed.

Section 2(c)3 and 2(d) of H.R. 6038 provides that proceeds for the sale of land that exceed the costs of preparing the sale by the Stutsman County Park Board be made available to the Secretary, without further appropriation, for activities relating to the operation of the Jamestown Dam and Reservoir. The Department has concerns that the language may not adequately ensure that the Government receives all such proceeds for Permitted Cabin Land conveyed to a permittee. The Department is willing to work with the Committee to amend the language to meet the author's intent.

The Department is pleased to offer these suggested modifications and would be happy to continue our work with the sponsors to achieve our mutual goals.

This concludes my written statement.

**Statement of Austin Ewell
Deputy Assistant Secretary for Water and Science
U.S. Department of the Interior**

**Before the
Subcommittee on Water, Power and Oceans
Committee on Natural Resources
U.S. House of Representatives
H.R. 6040, the Contra Costa Canal Transfer Act**

Wednesday, July 11, 2018

Chairman Gosar, Ranking Member Huffman, and Members of the Subcommittee, I am Austin Ewell, Deputy Assistant Secretary for Water and Science at the Department of the Interior (Department). Thank you for the opportunity to provide the view of the Department on H.R. 6040, the Contra Costa Canal Title Transfer Act.

H.R. 6040 directs the Department to offer to transfer and convey to the Contra Costa County Water District (District) all right, title, and interest of the United States in and to the Contra Costa Canal (Canal) within 180 days of enactment of this Act. The Canal, as defined in S. 3001, includes the entirety of the Contra Costa Canal Unit of the Central Valley Project (CVP), including pipelines, conduits, pumping plants, aqueducts, laterals, water storage and regulatory facilities, electric substations, related works, and improvements and all interests in land associated within the unit. The Rock Slough fish screen facility would also be eligible for transfer, subject to a mutual agreement between the Secretary of the Interior and the District. The lands under consideration to be transferred are currently under the jurisdiction of the Bureau of Reclamation, the Western Area Power Administration, and the Department of Defense. The District has been effectively operating and maintain these facilities. The title transfer of the Canal will maintain this arrangement into the future.

The Department recognizes that the District is a longtime CVP contractor, and that even with enactment of H.R. 6040, the District would continue to pay their share of CVP operations and maintenance and repayment through their water service rates. If the conveyance has not been completed within 12 months, Interior is required to submit Congress an explanation and the date by which the conveyance will be completed.

The Department has an active title transfer program and supports transferring certain Reclamation project facilities to non-Federal entities, particularly in cases where transfers could create opportunities, not just for those who receive title, but for other stakeholders and the public as well. Specifically, a streamlined title transfer process for uncomplicated transfers creates incentives for non-Federal entities to closely engage with Reclamation to complete the process and allow for appropriate transfers to take place without legislation. This approach is reflected in the Administration's Title Transfer legislative proposal, transmitted to Congress in February of this year.

Mr. Chairman, it is important to note that in most cases, Reclamation and the entity interested in taking title must complete environmental compliance activities and negotiate the terms and conditions of the transfer before pursuing legislation. Reclamation has been working with the District closely on this effort and will continue to do so. However, this legislation, as currently drafted would authorize the transfer before those steps are completed.

Instead, we recommend that the conveyance be completed pursuant to a title transfer agreement developed between the Department and the District, in consultation with other stakeholders, including the East Bay Regional Park District, the City of Antioch and the City of Walnut Creek. This will enable Reclamation, the District and the other stakeholders to work through the upfront activities necessary to complete a title transfer. We have had situations in previous transfers where additional legislation was required because the terms and conditions were dictated exclusively in the legislation and there was no flexibility to address unanticipated problems on this matter.

Further, it is important that the legislation protect the financial interests of the taxpayers. While the District has completed its repayment obligation for its share of construction costs of the Canal, we need to account for revenues from other contracts, leases and agreements that currently come to the United States, but would transfer to the District under this Act. We recommend that the legislation acknowledge this requirement.

We would be pleased to work with the Committee, the sponsors and the District on legislative language to reflect these necessary modifications. In the meantime, we recommend that Reclamation and the District complete a valuation analysis to ensure that the financial interests of the United States are protected and that the results be reflected in the title transfer agreement that is referenced in the legislation.

Mr. Chairman, Reclamation has been working closely with the District on this issue and we look forward to continuing that progress. We believe that if structured properly, the transfer of these facilities and the Rock Slough fish screen will improve the efficiency and effectiveness of the Canal's operations by getting control of the lands and facilities into the hands of those who best understand the needs of the community.

With these modifications, the Department is pleased to support this legislation.

This completes my statement.