

Subcommittee on Water, Power and Oceans
Doug Lamborn, Chairman
Hearing Memorandum

July 9, 2018

To: All Subcommittee on Water, Power and Oceans Members

From: Majority Committee Staff, Subcommittee on Water, Power and Oceans (x58331)

Subject: **Legislative Hearing on H.R. 6039 (Rep. Kevin Cramer, R-ND)**, 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.
July 11, 2018, at 2:00 PM, 1324 Longworth HOB

Bill Summary

H.R. 6039 directs the Secretary of the Interior to convey land and title of certain recreation land and permitted cabin land around the Jamestown Reservoir to the Stutsman County Park Board.

This hearing will also include consideration of three other bills.

Witnesses: *(In alphabetical order)*

Mr. Austin Ewell
Deputy Assistant Secretary for Water and Science
U.S. Department of the Interior
Washington, D.C.

Representative Craig Headland
North Dakota State Legislative Assembly
Montpelier, North Dakota

Background

Constructed in 1952 by the Bureau of Reclamation (Reclamation), the Jamestown Unit consists of the Jamestown Dam and Reservoir, and the surrounding recreational areas. Initial development of recreation including water wells, a swimming beach, and campgrounds was accomplished using federal money specifically appropriated for that purpose.¹ The Jamestown

¹ <https://www.usbr.gov/projects/index.php?id=474>

Reservoir now has roughly 4,421 acres dedicated to recreation and wildlife management, including about 73 acres of permitted use cabin land.²



Jamestown Dam and Reservoir.
Picture provided by the [Bureau of Reclamation](#)

Reclamation holds title to the individual water, power supply and delivery, and recreational facilities it has constructed over the last century. The federal government provided the initial capital contribution to build the vast majority of these early projects; however, the water, power, and recreational customers who benefitted from the facilities entered into long-term contracts with the federal government to repay their part of the initial taxpayer investment. Under the Reclamation Act of 1902, Reclamation may transfer day-to-day operational and maintenance responsibilities to project beneficiaries. However, the title or ownership of any facility must remain in federal ownership until Congress enacts legislation specifically authorizing such a transfer. Since 1996, more than three dozen Reclamation projects have been transferred or authorized to be transferred to local entities.³

A title transfer can provide many benefits to end users. A transfer can reduce regulatory paperwork and staff time at both the federal and local levels, reduce the federal backlog to repair and upgrade infrastructure and help improve the environment and public safety. Additionally, a title transfer can reduce federal liability since the local entity assumes a transferred facility's liability. At a 2008 Water and Power Subcommittee legislative hearing, Mr. Dan Keppen, Executive Director for the Family Farm Alliance, stated, "Experience throughout the West demonstrates that when control of projects is assumed by local interests, the projects are run more cost effectively and with far fewer items of deferred maintenance."⁴ It is because of these and other benefits of title transfers that Reclamation included in its Fiscal Year 2018 budget language reaffirming the agency's commitment to facilitate title transfers when they are mutually beneficial to all parties.⁵ According to the Department of the Interior, title transfer can ensure that management of lands and other property can be conducted by those best equipped to effectively manage any such property.⁶

² [Submitted Testimony of Mr. Alan Mikkelsen, senior Advisor to the Secretary for Water an Western Resource Issues, U.S. Department of Interior, before the Senate Water and Power Subcommittee legislative hearing, February 28, 2018, p. 1.](#)

³ U.S. Bureau of Reclamation, Title Transfer of Projects and Facilities, *Title Transfer of Projects and Facilities of the Bureau of Reclamation*; available at: <http://www.usbr.gov/title/>

⁴ [Submitted Testimony of Mr. Dan Keppen, Executive Director, The Family Farm Alliance, before the House Water and Power Subcommittee legislative hearing, September 25, 2008, p. 2.](#)

⁵ [Bureau of Reclamation Fiscal Year 2018 Budget in Brief, p.pari BH-36](#)

⁶ [Submitted Testimony of Mr. Alan Mikkelsen, senior Advisor to the Secretary for Water an Western Resource Issues, U.S. Department of Interior, before the Senate Water and Power Subcommittee legislative hearing, February 28, 2018, p. 1.](#)

The area surrounding Jamestown Reservoir is home to 71 permitted exclusive use cabins, which encompass approximately 73 acres.⁷ These homes are owned by private individuals, yet are situated on land owned by the federal government. In similar cases, this has disadvantaged homeowners by preventing them access to things such as home improvement loans or other sources of equity as they do not own the land under their structures.⁸ Further, according to the Department of the Interior, transfer of these parcels to the applicable homeowner will allow “flexible management of the lands to meet local needs and alleviate the Department’s administrative oversight and management of the land.”⁹ If enacted, H.R. 6039 will give homeowners the option to buy the land under their homes from the Stutsman County Park Board.

H.R. 6039 is similar to S. 2074, introduced by Senator John Hoeven (R-ND). S. 2074 was ordered favorably reported from the Senate Energy and Natural Resources Committee on May 17, 2018.¹⁰

Major Provisions of H.R. 6039

Section 1 defines terms used in the Act.

Section 2 provides for the conveyances of the recreation land and the permitted cabin land from the Bureau of Reclamation to the Stutsman County Park Board. This conveyance is conditioned on certain land management actions involving recreation and public purposes, and subject to certain easements and reservations under section 4 of the bill. Conveyances under this section are subject to reversion to the United States if not used for the stated purposes.

Section 3 of the bill transfers ownership of a State game and fish headquarters to the State of North Dakota. This conveyance is also subject to reversion.

Section 4 outlines several requirements, such as easements, reservation of mineral rights, and new building restrictions, that apply to the conveyances under section 2.

Section 5 states that between enactment of H.R. 6038 and actual conveyance of the property authorized under the Act, management agreements between the State of North Dakota and the Secretary of the Interior, as well as any applicable permits, shall remain in effect.

⁷ [Submitted Testimony of Mr. Alan Mikkelsen, Senior Advisor to the Secretary for Water an Western Resource Issues, U.S. Department of Interior, before the Senate Water and Power Subcommittee legislative hearing, February 28, 2018, p. 1.](#)

⁸ [Submitted testimony of Mr. Tom Fisher, President of the Patterson Lake Homeowners Association, to the Senate Committee on energy and Natural Resources legislative hearing, June 14, 2017.](#)

⁹ [Submitted Testimony of Mr. Alan Mikkelsen, senior Advisor to the Secretary for Water an Western Resource Issues, U.S. Department of Interior, before the Senate Water and Power Subcommittee legislative hearing, February 28, 2018, p. 1.](#)

¹⁰ [Senate Committee on Energy and Natural Resources business meeting, May 17, 2018.](#)

Cost

The Congressional Budget Office has not completed a cost estimate on this bill.

Administration Position

The Administration has indicated they are generally supportive of these title transfers. However, it expressed some reservations about certain provisions of the Senate bill (S. 2074) as introduced.¹¹

Effect on Current Law (Ramseyer)

N/A

¹¹ [Submitted Testimony of Mr. Alan Mikkelsen, senior Advisor to the Secretary for Water and Western Resource Issues, U.S. Department of Interior, before the Senate Water and Power Subcommittee legislative hearing, February 28, 2018, p. 1.](#)