

# Committee on Natural Resources

Rob Bishop, Chairman  
Markup Memorandum

July 16, 2018

To: All Natural Resources Committee Members

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

Markup: **H.R. 6038 (Rep. Kevin Cramer, R-ND)**, To establish a procedure for the conveyance of certain Federal property around the Dickinson Reservoir in the State of North Dakota.  
**July 18, 2018, 10:45am; 1324 Longworth HOB**

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## **Bill Summary**

H.R. 6038 directs the Secretary of the Interior to convey land and title to certain recreation land and permitted cabin land around the Dickinson Reservoir to the Dickinson Department of Parks and Recreation.

## **Background**

Constructed in 1950 by the Bureau of Reclamation, the Dickinson Unit consists of the Dickinson Dam and Reservoir (known as Edward Arthur Patterson Lake). It also includes over 1,200 land acres, many of which are used for recreational activities, including swimming, boating, picnicking, and overnight camping.<sup>1</sup> H.R. 6038 would transfer ownership of recreation land and structures from the Bureau of Reclamation to local ownership. However, the Dickinson Dam and Reservoir will remain under the ownership 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



Dickinson Dam and Reservoir.  
Photograph provided by the [Bureau of Reclamation](#)

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<sup>1</sup> <https://www.usbr.gov/projects/index.php?id=450>

authorizing such a transfer. Since 1996, more than three dozen Reclamation projects have been transferred or authorized to be transferred to local entities.<sup>2</sup>

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 for repairs and upgrades to 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."<sup>3</sup> 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.<sup>4</sup>

Dickinson Dam and Reservoir were originally constructed to supply the city of Dickinson with a municipal water source. However, in 1991, the City began getting its water from Lake Sakakawea through the Southwest Pipeline Project, and Edward Arthur Patterson Lake is now primarily used for recreation.<sup>5</sup> Around this lake, many people are permitted to own homes on federal land. Unfortunately, not owning the land under their homes has resulted in many complications and financial uncertainty to the residents. According to the President of the Patterson Lake Homeowners Association, homeowners have not been able to access things such as home improvement loans or other sources of equity because of this situation.<sup>6</sup> H.R. 6038 will give homeowners the option to buy the land under their permanent homes from the Dickinson Department of Parks and Recreation, allowing them to leverage the land and improvements they have made.<sup>7</sup>

H.R. 6038 is similar to S. 440, introduced by Senator John Hoeven (R-ND). S. 440 was ordered favorably reported from the Senate Energy and Natural Resources Committee on May 17, 2018, by voice vote.<sup>8</sup> At a July 2018 Subcommittee on Water, Power and Oceans hearing,

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<sup>2</sup> 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/>

<sup>3</sup> Submitted Testimony of Mr. Dan Keppen, Executive Director, The Family Farm Alliance, before the House Water and Power Subcommittee, September 25, 2008, p. 2.

<sup>4</sup> [Bureau of Reclamation Fiscal Year 2018 Budget in Brief, p. BH-36](#)

<sup>5</sup> Submitted Testimony of Mr. Tom Fisher, President, Patterson Lake Homeowners Association, before the Senate Water and Power Subcommittee, June 14, 2017, p. 1.

<sup>6</sup> [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.](#)

<sup>7</sup> Id. at 6, p. 2.

<sup>8</sup> [Senate Committee on Energy and Natural Resources business meeting, May 17, 2018.](#)

Mr. Tom Fisher from the Patterson Lake Homeowners Association spoke to the benefits that title transfer will have on the local environment and for the community that depends on the Lake. Mr. Fisher testified that the community conducted public meetings throughout this process, and that the title transfer would result in “additional property taxes to the county and school, which will further benefit the community” by investing that increased revenue in the upkeep of the Lake.<sup>9</sup> Congressman Paul A. Gosar (R-AZ) noted this increased incentive to preserve the local environment, and Mr. Fisher stated that, as a result, “none of those [reversionary clauses in H.R. 6038] are necessary; they would not help.”<sup>10</sup>

### **Major Provisions of H.R. 6038**

*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 Dickinson Department of Parks and Recreation. 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.

### **Cost**

The Congressional Budget Office has yet to complete a cost estimate of this bill.

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<sup>9</sup> *Legislative Hearing on H.R. 5556, H.R. 6038, H.R. 6039, and H.R. 6040 Before H. Comm. on Natural Resources, Subcomm. on Water, Power and Oceans, 115<sup>th</sup> Cong., 2, (2018) (Statement of Mr. Tom Fisher), available at [https://naturalresources.house.gov/uploadedfiles/7.11\\_testimony\\_fisher.pdf](https://naturalresources.house.gov/uploadedfiles/7.11_testimony_fisher.pdf), p. 2.*

<sup>10</sup> *Legislative Hearing on H.R. 5556, H.R. 6038, H.R. 6039, and H.R. 6040 Before H. Comm. on Natural Resources, Subcomm. on Water, Power and Oceans, 115<sup>th</sup> Cong., 2, (2018) (Oral Statement of Mr. Tom Fisher), available at <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=405249>, starting at 1:42:32.*

### **Administration Position**

The Administration does not oppose transfer of these properties.<sup>11</sup>

### **Anticipated Amendments**

The Committee anticipates an amendment from Chairman Rob Bishop to remove the several reversionary clauses from the bill.

### **Effect on Current Law (Ramseyer)**

N/A

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<sup>11</sup> *Legislative Hearing on H.R. 5556, H.R. 6038, H.R. 6039, and H.R. 6040 before H. Comm on Natural Resources, Subcomm. on Water, Power and Oceans, 115<sup>th</sup> Cong, 2, (2018) (Statement of Mr. Austin Ewell), available at [https://naturalresources.house.gov/uploadedfiles/7.11\\_testimony\\_ewell.pdf](https://naturalresources.house.gov/uploadedfiles/7.11_testimony_ewell.pdf), p.1.*