

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2068

To authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 3 (legislative day, MAY 2), 1994

Mr. PRESSLER (for himself, Mr. DASCHLE, Mr. GRASSLEY, Mr. HARKIN, and Mr. DURENBERGER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Lewis and Clark Rural  
5       Water System Act of 1994”.

1 **SEC. 2. DEFINITIONS.**

2 As used in this Act (unless the context clearly re-  
3 quires otherwise):

4 (1) ENVIRONMENTAL ENHANCEMENT.—The  
5 term “environmental enhancement” means the wet-  
6 land and wildlife enhancement activities that are  
7 carried out substantially in accordance with the envi-  
8 ronmental enhancement component of the feasibility  
9 study.

10 (2) ENVIRONMENTAL ENHANCEMENT COMPO-  
11 NENT.—The term “environmental enhancement  
12 component” means the component described in the  
13 report entitled “Wetlands and Wildlife Enhancement  
14 for the Lewis and Clark Rural Water System”,  
15 dated April 1991, that is included in the feasibility  
16 study.

17 (3) FEASIBILITY STUDY.—The term “feasibility  
18 study” means the study entitled “Feasibility Level  
19 Evaluation of a Missouri River Regional Water Sup-  
20 ply for South Dakota, Iowa and Minnesota”, dated  
21 September 1993, that includes a water conservation  
22 plan, environmental report, and environmental en-  
23 hancement component.

24 (4) MEMBER ENTITY.—The term “member en-  
25 tity” means a rural water system or municipality

1 that signed a Letter of Commitment to participate  
2 in the Lewis and Clark Rural Water System.

3 (5) PROJECT CONSTRUCTION BUDGET.—The  
4 term “project construction budget” means the de-  
5 scription of the total amount of funds that are need-  
6 ed for the construction of the water supply system,  
7 as contained in the feasibility study.

8 (6) PUMPING AND INCIDENTAL OPERATIONAL  
9 REQUIREMENTS.—The term “pumping and inciden-  
10 tal operational requirements” means all power re-  
11 quirements that are incidental to the operation of in-  
12 take facilities, pumping stations, water treatment fa-  
13 cilities, reservoirs, and pipelines up to the point of  
14 delivery of water by the Lewis and Clark Rural  
15 Water System to each member entity that distrib-  
16 utes water at retail to individual users.

17 (7) SECRETARY.—The term “Secretary” means  
18 the Secretary of the Interior.

19 (8) WATER SUPPLY SYSTEM.—The term “water  
20 supply system” means the Lewis and Clark Rural  
21 Water System that is established and operated sub-  
22 stantially in accordance with the feasibility study.

1 **SEC. 3. FEDERAL ASSISTANCE FOR THE WATER SUPPLY**  
2 **SYSTEM.**

3 (a) IN GENERAL.—The Secretary is authorized to  
4 make grants to the Lewis and Clark Rural Water System,  
5 Inc., a nonprofit corporation, for the planning and con-  
6 struction of the water supply system.

7 (b) SERVICE AREA.—The water supply system shall  
8 provide for safe and adequate municipal, rural, and indus-  
9 trial water supplies, environmental enhancement, mitiga-  
10 tion of wetland areas, and water conservation in—

11 (1) Lake County, McCook County, Minnehaha  
12 County, Turner County, Lincoln County, Clay Coun-  
13 ty, and Union County, in southeastern South Da-  
14 kota;

15 (2) Rock County, and Nobles County, in south-  
16 western Minnesota; and

17 (3) Lyon County, Sioux County, Osceola Coun-  
18 ty, O'Brien County, Dickinson County, and Clay  
19 County, in northwestern Iowa.

20 (c) AMOUNT OF GRANTS.—Grants made available  
21 under subsection (a) to the Lewis and Clark Rural Water  
22 System, Inc. shall not exceed the amount of funds author-  
23 ized under section 10.

24 (d) LIMITATION ON AVAILABILITY OF CONSTRU-  
25 CTION FUNDS.—The Secretary shall not obligate funds for  
26 the construction of the water supply system until—

1           (1) the requirements of the National Environ-  
2           mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)  
3           have been met;

4           (2) a final engineering report has been prepared  
5           and submitted to Congress not less than 90 days be-  
6           fore the commencement of construction of the sys-  
7           tem; and

8           (3) a water conservation program has been de-  
9           veloped and implemented.

10 **SEC. 4. FEDERAL ASSISTANCE FOR WETLAND AND WILD-**  
11 **LIFE ENHANCEMENT.**

12           (a) INITIAL DEVELOPMENT.—The Secretary shall  
13           make grants and other funds available to Lewis and Clark  
14           Rural Water System, Inc., and other private, State, and  
15           Federal entities, for the initial development of the environ-  
16           mental enhancement component.

17           (b) NONREIMBURSEMENT.—Funds provided under  
18           subsection (a) shall be nonreimbursable and nonreturn-  
19           able.

20 **SEC. 5. WATER CONSERVATION PROGRAMS.**

21           (a) PURPOSE.—The water conservation program re-  
22           quired under this section shall be designed to ensure that  
23           users of water from the water supply system will use the  
24           best practicable technology and management techniques to  
25           conserve water use.

1 (b) DESCRIPTION.—The water conservation pro-  
2 grams shall include—

3 (1) low consumption performance standards for  
4 all newly installed plumbing fixtures;

5 (2) leak detection and repair programs;

6 (3) rate schedules that do not include declining  
7 block rate schedules for municipal households and  
8 special water users (as defined in the feasibility  
9 study);

10 (4) public education programs and technical as-  
11 sistance to member entities; and

12 (5) coordinated operation among each rural  
13 water system, and each water supply facility in exist-  
14 ence on the date of enactment of this Act, in the  
15 service area of the system.

16 (c) REVIEW AND REVISION.—The programs de-  
17 scribed in subsection (b) shall contain provisions for peri-  
18 odic review and revision, in cooperation with the Secretary.

19 **SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.**

20 Mitigation for fish and wildlife losses incurred as a  
21 result of the construction and operation of the water sup-  
22 ply system shall be on an acre-for-acre basis, based on eco-  
23 logical equivalency, concurrent with project construction,  
24 as provided in the feasibility study.

1 **SEC. 7. USE OF PICK-SLOAN POWER.**

2 (a) IN GENERAL.—From power designated for future  
3 irrigation and drainage pumping for the Pick-Sloan Mis-  
4 souri Basin program, the Western Area Power Adminis-  
5 tration shall make available the capacity and energy re-  
6 quired to meet the pumping and incidental operational re-  
7 quirements of the water supply system during the period  
8 beginning May 1, and ending October 31, of each year.

9 (b) CONDITIONS.—The capacity and energy described  
10 in subsection (a) shall be made available on the following  
11 conditions:

12 (1) The water supply system shall be operated  
13 on a not-for-profit basis.

14 (2) The water supply system shall contract to  
15 purchase the entire electric service requirements of  
16 the system, including the capacity and energy made  
17 available under subsection (a), from a qualified pref-  
18 erence power supplier that itself purchases power  
19 from the Western Area Power Administration.

20 (3) The rate schedule applicable to the capacity  
21 and energy made available under subsection (a) shall  
22 be the firm power rate schedule of the Pick-Sloan  
23 Eastern Division of the Western Area Power Admin-  
24 istration in effect when the power is delivered by the  
25 Administration.

26 (4) It shall be agreed by contract among—

1 (A) the Western Area Power Administra-  
2 tion;

3 (B) the power supplier with which the  
4 water supply system contracts under paragraph  
5 (2);

6 (C) the power supplier of the entity de-  
7 scribed in subparagraph (B); and

8 (D) Lewis and Clark Rural Water System,  
9 Inc.;

10 that in the case of the capacity and energy made  
11 available under subsection (a), the benefit of the  
12 rate schedule described in paragraph (3) shall be  
13 passed through to the water supply system, except  
14 that the power supplier of the water supply system  
15 shall not be precluded from including, in the charges  
16 of the supplier to the water system for the electric  
17 service, the other usual and customary charges of  
18 the supplier.

19 **SEC. 8. NO LIMITATION ON WATER PROJECTS IN STATES.**

20 This Act shall not limit the authorization for water  
21 projects in South Dakota, Iowa, and Minnesota under law  
22 in effect on or after the date of enactment of this Act.

23 **SEC. 9. WATER RIGHTS.**

24 Nothing in this Act—

1           (1) invalidates or preempts State water law or  
2           an interstate compact governing water;

3           (2) alters the rights of any State to any appro-  
4           priated share of the waters of any body of surface  
5           or ground water, whether determined by past or fu-  
6           ture interstate compacts or by past or future legisla-  
7           tive or final judicial allocations;

8           (3) preempts or modifies any Federal or State  
9           law, or interstate compact, governing water quality  
10          or disposal; or

11          (4) confers on any non-Federal entity the abil-  
12          ity to exercise any Federal right to the waters of any  
13          stream or to any ground water resource.

14 **SEC. 10. FEDERAL COST SHARE.**

15          The Secretary is authorized to provide funds equal  
16 to 80 percent of—

17           (1) the amount allocated in the total project  
18           construction budget for the planning and construc-  
19           tion of the water supply system under section 3; and

20           (2) such sums as are necessary to defray in-  
21           creases in development costs reflected in appropriate  
22           engineering cost indices after September 1, 1993.

23 **SEC. 11. NON-FEDERAL COST SHARE.**

24          The non-Federal share of the costs allocated to the  
25 water supply system shall be 20 percent of the—

1           (1) the amount allocated in the total project  
2           construction budget for the planning and construc-  
3           tion of the water supply system under section 3; and

4           (2) such sums as are necessary to defray in-  
5           creases in development costs reflected in appropriate  
6           engineering cost indices after September 1, 1993.

7 **SEC. 12. BUREAU OF RECLAMATION.**

8           (a) AUTHORIZATION.—The Secretary is authorized to  
9           allow the Bureau of Reclamation to provide project con-  
10          struction oversight to the water supply system and envi-  
11          ronmental enhancement component for those areas of the  
12          water supply system that are described in section 3(b).

13          (b) PROJECT OVERSIGHT ADMINISTRATION.—The  
14          amount of funds used by the Bureau of Reclamation for  
15          planning and construction of the water supply system may  
16          not exceed an amount equal to 1 percent of the amount  
17          provided in the total project construction budget for the  
18          entire project construction period.

19 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

20          There are authorized to be appropriated  
21          \$226,320,000 to carry out this Act, of which not less than  
22          \$8,487,000 shall be used for the initial development of the  
23          environmental enhancement component under section 4,  
24          to remain available until expended.

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