

105TH CONGRESS
2D SESSION

S. 2117

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

IN THE SENATE OF THE UNITED STATES

MAY 22, 1998

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

A BILL

To authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in 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 “Perkins County Rural
5 Water System Act of 1997”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

1 (1) there are insufficient water supplies of rea-
2 sonable quality available to the members of the Per-
3 kins County Rural Water System located in Perkins
4 County, South Dakota, and the water supplies that
5 are available do not meet minimum health and safe-
6 ty standards, thereby posing a threat to public
7 health and safety;

8 (2) in 1977, the North Dakota State Legisla-
9 ture authorized and directed the State Water Com-
10 mission to conduct the Southwest Area Water Sup-
11 ply Study, which included water service to a portion
12 of Perkins County, South Dakota;

13 (3) amendments made by the Garrison Diver-
14 sion Unit Reformulation Act of 1986 (Public Law
15 101–294) authorized the Southwest Pipeline project
16 as an eligible project for Federal cost share partici-
17 pation;

18 (4) the Perkins County Rural Water System
19 has continued to be recognized by the State of North
20 Dakota, the Southwest Water Authority, the North
21 Dakota Water Commission, the Department of the
22 Interior, and Congress as a component of the South-
23 west Pipeline Project; and

24 (5) the best available, reliable, and safe rural
25 and municipal water supply to serve the needs of the

1 Perkins County Rural Water System, Inc., members
2 is the waters of the Missouri River as delivered by
3 the Southwest Pipeline Project in North Dakota.

4 (b) PURPOSES.—The purposes of this Act are—

5 (1) to ensure a safe and adequate municipal,
6 rural, and industrial water supply for the members
7 of the Perkins County Rural Water Supply System,
8 Inc., in Perkins County, South Dakota;

9 (2) to assist the members of the Perkins Coun-
10 ty Rural Water Supply System, Inc., in developing
11 safe and adequate municipal, rural, and industrial
12 water supplies; and

13 (3) to promote the implementation of water
14 conservation programs by the Perkins County Rural
15 Water System, Inc.

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

18 (1) FEASIBILITY STUDY.—The term “feasibility
19 study” means the study entitled “Feasibility Study
20 for Rural Water System for Perkins County Rural
21 Water System, Inc.”, as amended in March 1995.

22 (2) PROJECT CONSTRUCTION BUDGET.—The
23 term “project construction budget” means the de-
24 scription of the total amount of funds that are need-

1 ed for the construction of the water supply system,
2 as described in the feasibility study.

3 (3) PUMPING AND INCIDENTAL OPERATIONAL
4 REQUIREMENTS.—The term “pumping and inciden-
5 tal operational requirements” means all power re-
6 quirements that are incidental to the operation of in-
7 take facilities, pumping stations, water treatment fa-
8 cilities, cooling facilities, reservoirs, and pipelines to
9 the point of delivery of water by the Perkins County
10 Rural Water System to each entity that distributes
11 water at retail to individual users.

12 (4) SECRETARY.—The term “Secretary” means
13 the Secretary of the Interior, acting through the
14 Commissioner of the Bureau of Reclamation.

15 (5) WATER SUPPLY SYSTEM.—The term “water
16 supply system” means the Perkins County Rural
17 Water System, Inc., a nonprofit corporation, estab-
18 lished and operated substantially in accordance with
19 the feasibility study.

20 **SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYS-**
21 **TEM.**

22 (a) IN GENERAL.—The Secretary shall make grants
23 to the water supply system for the Federal share of the
24 costs of—

1 (1) the planning and construction of the water
2 supply system; and

3 (2) repairs to existing public water distribution
4 systems to ensure conservation of the resources and
5 to make the systems functional under the new water
6 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, mitigation of wetlands areas, repairs
10 to existing public water distribution systems, and water
11 conservation in Perkins County, South Dakota.

12 (c) AMOUNT OF GRANTS.—Grants made available
13 under subsection (a) to the water supply system shall not
14 exceed the Federal share under section 10.

15 (d) LIMITATION ON AVAILABILITY OF CONSTRU-
16 TION FUNDS.—The Secretary shall not obligate funds for
17 the construction of the water supply system until—

18 (1) the requirements of the National Environ-
19 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
20 are met with respect to the water supply system;

21 (2) a final engineering report has been prepared
22 and submitted to Congress for a period of not less
23 than 90 days before the commencement of construc-
24 tion of the system; and

1 (3) the water supply system has developed and
2 implemented a water conservation program.

3 **SEC. 5. WATER CONSERVATION PROGRAM.**

4 (a) PURPOSE.—The water conservation program
5 under section 4(d)(3) shall be designed to ensure that
6 users of water from the water supply system will use the
7 best practicable technology and management techniques to
8 conserve water use.

9 (b) DESCRIPTION.—The water conservation program
10 shall include—

11 (1) low consumption performance standards for
12 all newly installed plumbing fixtures;

13 (2) leak detection and repair programs;

14 (3) rate structures that do not include declining
15 block rate schedules for municipal households or spe-
16 cial water users (as defined in the feasibility study);

17 (4) public education programs;

18 (5) coordinated operation and maintenance (in-
19 cluding necessary repairs to ensure minimal water
20 losses) by and between the water supply system and
21 any member of the system that is a preexisting
22 water supply facility within the service area of the
23 system; and

24 (6) coordinated operation between the South-
25 west Pipeline Project of North Dakota and the Per-

1 kins County Rural Water System, Inc., of South Da-
2 kota.

3 (c) REVIEW AND REVISION.—The program described
4 in subsection (b) shall contain provisions for periodic re-
5 view and revision, in cooperation with the Secretary.

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

7 Mitigation of fish and wildlife losses incurred as a
8 result of the construction and operation of the water sup-
9 ply system shall be on an acre-for-acre basis, based on eco-
10 logical equivalency, concurrent with project construction,
11 as provided in the feasibility study.

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

13 (a) IN GENERAL.—From power designated for future
14 irrigation and drainage pumping for the Pick-Sloan Mis-
15 souri River Basin Program, the Western Area Power Ad-
16 ministration shall make available the capacity and energy
17 required to meet the pumping and incidental operational
18 requirements of the water supply system during the period
19 beginning May 1 and ending October 31 of each year.

20 (b) CONDITIONS.—The capacity and energy described
21 in subsection (a) shall be made available on the following
22 conditions:

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

1 (2) The water supply system shall contract to
2 purchase its entire electric service requirements, in-
3 cluding the capacity and energy made available
4 under subsection (a), from a qualified preference
5 power supplier that itself purchases power from the
6 Western Area Power Administration.

7 (3) The rate schedule applicable to the capacity
8 and energy made available under subsection (a) shall
9 be the firm power rate schedule of the Pick-Sloan
10 Eastern Division of the Western Area Power Admin-
11 istration in effect when the power is delivered by the
12 Administration.

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

14 (A) the Western Area Power Administra-
15 tion;

16 (B) the power supplier with which the
17 water supply system contracts under paragraph
18 (2);

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

21 (D) the Perkins County Rural Water Sys-
22 tem, Inc.;

23 that in the case of the capacity and energy made
24 available under subsection (a), the benefit of the
25 rate schedule described in paragraph (3) shall be

1 passed through to the water supply system, except
2 that the power supplier of the water supply system
3 shall not be precluded from including, in the charges
4 of the supplier to the water system for the electric
5 service, the other usual and customary charges of
6 the supplier.

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

8 This Act does not limit the authorization for water
9 projects in South Dakota and North Dakota under law
10 in effect on or after the date of enactment of this Act.

11 **SEC. 9. WATER RIGHTS.**

12 Nothing in this Act—

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

15 (2) alters the rights of any State to any appro-
16 priated share of the waters of any body of surface
17 or ground water, whether determined by past or fu-
18 ture interstate compacts or by past or future legisla-
19 tive or final judicial allocations;

20 (3) preempts or modifies any Federal or State
21 law, or interstate compact, dealing with water qual-
22 ity or disposal; or

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

1 **SEC. 10. FEDERAL SHARE.**

2 The Federal share under section 4 shall be 75 percent
3 of—

4 (1) the amount allocated in the total project
5 construction budget for the planning and construc-
6 tion of the water supply system under section 4; and

7 (2) such sums as are necessary to defray in-
8 creases in development costs reflected in appropriate
9 engineering cost indices after March 1, 1995.

10 **SEC. 11. NON-FEDERAL SHARE.**

11 The non-Federal share under section 4 shall be 25
12 percent of—

13 (1) the amount allocated in the total project
14 construction budget for the planning and construc-
15 tion of the water supply system under section 4; and

16 (2) such sums as are necessary to defray in-
17 creases in development costs reflected in appropriate
18 engineering cost indices after March 1, 1995.

19 **SEC. 12. CONSTRUCTION OVERSIGHT.**

20 (a) AUTHORIZATION.—The Secretary may provide
21 construction oversight to the water supply system for
22 areas of the water supply system.

23 (b) PROJECT OVERSIGHT ADMINISTRATION.—The
24 amount of funds used by the Secretary for planning and
25 construction of the water supply system may not exceed
26 an amount equal to 3 percent of the amount provided in

1 the total project construction budget for the portion of the
2 project to be constructed in Perkins County, South Da-
3 kota.

4 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

5 There are authorized to be appropriated—

6 (1) \$15,000,000 for the planning and construc-
7 tion of the water system under section 4; and

8 (2) such sums as are necessary to defray in-
9 creases in development costs reflected in appropriate
10 engineering cost indices after March 1, 1995.

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