

105TH CONGRESS  
2D SESSION

# S. 744

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## AN ACT

To authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a non-profit 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 “Fall River Water Users  
5 District Rural Water System Act of 1998”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) there are insufficient water supplies of rea-  
4 sonable quality available to the members of the Fall  
5 River Water Users District Rural Water System lo-  
6 cated in Fall River County, South Dakota, and the  
7 water supplies that are available are of poor quality  
8 and do not meet minimum health and safety stand-  
9 ards, thereby posing a threat to public health and  
10 safety;

11 (2) past cycles of severe drought in the south-  
12 eastern area of Fall River County have left residents  
13 without a satisfactory water supply, and, during  
14 1990, many home owners and ranchers were forced  
15 to haul water to sustain their water needs;

16 (3) because of the poor quality of water sup-  
17 plies, most members of the Fall River Water Users  
18 District are forced to either haul bottled water for  
19 human consumption or use distillers;

20 (4) the Fall River Water Users District Rural  
21 Water System has been recognized by the State of  
22 South Dakota; and

23 (5) the best available, reliable, and safe rural  
24 and municipal water supply to serve the needs of the  
25 Fall River Water Users District Rural Water Sys-  
26 tem members consists of a Madison Aquifer well, 3

1 separate water storage reservoirs, 3 pumping sta-  
2 tions, and approximately 200 miles of pipeline.

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

4 (1) to ensure a safe and adequate municipal,  
5 rural, and industrial water supply for the members  
6 of the Fall River Water Users District Rural Water  
7 System in Fall River County, South Dakota;

8 (2) to assist the members of the Fall River  
9 Water Users District in developing safe and ade-  
10 quate municipal, rural, and industrial water sup-  
11 plies; and

12 (3) to promote the implementation of water  
13 conservation programs by the Fall River Water  
14 Users District Rural Water System.

15 **SEC. 3. DEFINITIONS.**

16 In this Act:

17 (1) ENGINEERING REPORT.—The term “engi-  
18 neering report” means the study entitled “Supple-  
19 mental Preliminary Engineering Report for Fall  
20 River Water Users District” published in August  
21 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 engineering report.

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 Fall River  
10 Water Users District Rural Water System to each  
11 entity that distributes water at retail to individual  
12 users.

13 (4) SECRETARY.—The term “Secretary” means  
14 the Secretary of Agriculture.

15 (5) WATER SUPPLY SYSTEM.—The term “water  
16 supply system” means the Fall River Water Users  
17 District Rural Water System, a nonprofit corpora-  
18 tion, established and operated substantially in ac-  
19 cordance with the engineering report.

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 the planning and construction of the water supply  
25 system.

1 (b) SERVICE AREA.—The water supply system shall  
2 provide for safe and adequate municipal, rural, and indus-  
3 trial water supplies, mitigation of wetlands areas, and  
4 water conservation within the boundaries of the Fall River  
5 Water Users District, described as follows: bounded on the  
6 north by the Angostura Reservoir, the Cheyenne River,  
7 and the line between Fall River and Custer Counties,  
8 bounded on the east by the line between Fall River and  
9 Shannon Counties, bounded on the south by the line be-  
10 tween South Dakota and Nebraska, and bounded on the  
11 west by the Igloo-Provo Water Project District.

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 9.

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 and

22 (2) a final engineering report and plan for a  
23 water conservation program have been prepared and  
24 submitted to Congress for a period of not less than

1       90 days before the commencement of construction of  
2       the system.

3       **SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.**

4       Mitigation of fish and wildlife losses incurred as a  
5       result of the construction and operation of the water sup-  
6       ply system shall be on an acre-for-acre basis, based on eco-  
7       logical equivalency, concurrent with project construction,  
8       as provided in the engineering report.

9       **SEC. 6. USE OF PICK-SLOAN POWER.**

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

17       (b) CONDITIONS.—The capacity and energy described  
18       in subsection (a) shall be made available on the following  
19       conditions:

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

22               (2) The water supply system shall contract to  
23       purchase its entire electric service requirements, in-  
24       cluding the capacity and energy made available  
25       under subsection (a), from a qualified preference

1 power supplier that itself purchases power from the  
2 Western Area Power Administration.

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

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

10 (A) the Western Area Power Administra-  
11 tion;

12 (B) the power supplier with which the  
13 water supply system contracts under paragraph  
14 (2);

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

17 (D) the Fall River Water Users District;

18 that in the case of the capacity and energy made  
19 available under subsection (a), the benefit of the  
20 rate schedule described in paragraph (3) shall be  
21 passed through to the water supply system, except  
22 that the power supplier of the water supply system  
23 shall not be precluded from including, in the charges  
24 of the supplier to the water system for the electric

1 service, the other usual and customary charges of  
2 the supplier.

3 **SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATE.**

4 This Act does not limit the authorization for water  
5 projects in South Dakota under law in effect on or after  
6 the date of enactment of this Act.

7 **SEC. 8. WATER RIGHTS.**

8 Nothing in this Act—

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

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

16 (3) preempts or modifies any Federal or State  
17 law, or interstate compact, dealing with water qual-  
18 ity or disposal; or

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

22 **SEC. 9. FEDERAL SHARE.**

23 The Federal share under section 4 shall be 70 percent  
24 of—

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 4; and

4           (2) such sums as are necessary to defray in-  
5           creases in development costs reflected in appropriate  
6           engineering cost indices after August 1, 1995.

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

8           The non-Federal share under section 4 shall be 30  
9 percent of—

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

13           (2) such sums as are necessary to defray in-  
14           creases in development costs reflected in appropriate  
15           engineering cost indices after August 1, 1995.

16 **SEC. 11. CONSTRUCTION OVERSIGHT.**

17           (a) **AUTHORIZATION.**—The Secretary of the Interior,  
18 acting through the Director of the Bureau of Reclamation  
19 may provide construction oversight to the water supply  
20 system for areas of the water supply system.

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

1 project to be constructed in Fall River County, South Da-  
2 kota.

3 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated—

5 (1) \$3,600,000 for the planning and construc-  
6 tion of the water 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 August 1, 1995.

Passed the Senate October 7 (legislative day, Octo-  
ber 2), 1998.

Attest:

*Secretary.*

105<sup>TH</sup> CONGRESS  
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To authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes.