

Calendar No. 613

105TH CONGRESS
1ST SESSION

S. 744

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.

IN THE SENATE OF THE UNITED STATES

MAY 14, 1997

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

SEPTEMBER 25, 1998

Reported by Mr. MURKOWSKI, with amendments

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A BILL

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.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fall River Water Users
3 District Rural Water System Act of 1997”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—Congress finds that—

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

14 (2) past cycles of severe drought in the south-
15 eastern area of Fall River County have left residents
16 without a satisfactory water supply, and, during
17 1990, many home owners and ranchers were forced
18 to haul water to sustain their water needs;

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

23 (4) the Fall River Water Users District Rural
24 Water System has been recognized by the State of
25 South Dakota; and

1 (5) the best available, reliable, and safe rural
2 and municipal water supply to serve the needs of the
3 Fall River Water Users District Rural Water Sys-
4 tem members consists of a Madison Aquifer well, 3
5 separate water storage reservoirs, 3 pumping sta-
6 tions, and approximately 200 miles of pipeline.

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

8 (1) to ensure a safe and adequate municipal,
9 rural, and industrial water supply for the members
10 of the Fall River Water Users District Rural Water
11 System in Fall River County, South Dakota;

12 (2) to assist the members of the Fall River
13 Water Users District in developing safe and ade-
14 quate municipal, rural, and industrial water sup-
15 plies; and

16 (3) to promote the implementation of water
17 conservation programs by the Fall River Water
18 Users District Rural Water System.

19 **SEC. 3. DEFINITIONS.**

20 In this Act:

21 (1) ENGINEERING REPORT.—The term “engi-
22 neering report” means the study entitled “Supple-
23 mental Preliminary Engineering Report for Fall
24 River Water Users District” published in August
25 1995.

1 (2) PROJECT CONSTRUCTION BUDGET.—The
2 term “project construction budget” means the de-
3 scription of the total amount of funds that are need-
4 ed for the construction of the water supply system,
5 as described in the engineering report.

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

16 (4) SECRETARY.—The term “Secretary” means
17 the Secretary of the Interior, acting through the Di-
18 rector of the Bureau of Reclamation. *Agriculture.*

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

1 **SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYS-**
2 **TEM.**

3 (a) IN GENERAL.—The Secretary shall make grants
4 to the water supply system for the Federal share of the
5 costs of the planning and construction of the water supply
6 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, and
10 water conservation within the boundaries of the Fall River
11 Water Users District, described as follows: bounded on the
12 north by the Angostura Reservoir, the Cheyenne River,
13 and the line between Fall River and Custer Counties,
14 bounded on the east by the line between Fall River and
15 Shannon Counties, bounded on the south by the line be-
16 tween South Dakota and Nebraska, and bounded on the
17 west by the Igloo-Provo Water Project District.

18 (c) AMOUNT OF GRANTS.—Grants made available
19 under subsection (a) to the water supply system shall not
20 exceed the Federal share under section 9.

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

24 (1) the requirements of the National Environ-
25 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)

1 are met with respect to the water supply system;
2 and

3 (2) a final engineering report has been prepared
4 and submitted to Congress for a period of not less
5 than 90 days before the commencement of construc-
6 tion of the system.

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

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

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

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

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

24 (1) The water supply system shall be operated
25 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 Fall River Water Users District;

22 that in the case of the capacity and energy made
23 available under subsection (a), the benefit of the
24 rate schedule described in paragraph (3) shall be
25 passed through to the water supply system, except

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

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

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

10 **SEC. 8. WATER RIGHTS.**

11 Nothing in this Act—

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

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

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

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

1 **SEC. 9. FEDERAL SHARE.**

2 The Federal share under section 4 shall be 80 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 August 1, 1995.

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

11 The non-Federal share under section 4 shall be 20
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 August 1, 1995.

19 **SEC. 11. CONSTRUCTION OVERSIGHT.**

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

24 (b) *PROJECT OVERSIGHT ADMINISTRATION.*—The
25 amount of funds used by the Secretary for planning and
26 construction of the water supply system may not exceed

1 an amount equal to 3 percent of the amount provided in
2 the total project construction budget for the portion of the
3 project to be constructed in Fall River County, South Da-
4 kota.

5 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

6 There are authorized to be appropriated—

7 (1) \$3,600,000 for the planning and construc-
8 tion of the water system under section 4; and

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

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SEPTEMBER 25, 1998

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