AN ACT

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Perkins County Rural Water System Act of 1998”.

AN ACT
SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

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

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

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

(4) the Perkins County Rural Water System
has continued to be recognized by the State of North
Dakota, the Southwest Water Authority, the North
Dakota Water Commission, the Department of the
Interior, and Congress as a component of the South-
west Pipeline Project; and
(5) the best available, reliable, and safe rural
and municipal water supply to serve the needs of the
Perkins County Rural Water System, Inc., members
is the waters of the Missouri River as delivered by
the Southwest Pipeline Project in North Dakota.
(b) PURPOSES.—The purposes of this Act are—
(1) to ensure a safe and adequate municipal,
rural, and industrial water supply for the members
of the Perkins County Rural Water Supply System,
Inc., in Perkins County, South Dakota;
(2) to assist the members of the Perkins Coun-
ty Rural Water Supply System, Inc., in developing
safe and adequate municipal, rural, and industrial
water supplies; and
(3) to promote the implementation of water
conservation programs by the Perkins County Rural
Water System, Inc.
SEC. 3. DEFINITIONS.
In this Act:
(1) FEASIBILITY STUDY.—The term “feasibility
study” means the study entitled “Feasibility Study
for Rural Water System for Perkins County Rural
(2) PROJECT CONSTRUCTION BUDGET.—The
term “project construction budget” means the de-
scription of the total amount of funds that are needed for the construction of the water supply system, as described in the feasibility study.

(3) Pumping and incidental operational requirements.—The term “pumping and incidental operational requirements” means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Perkins County Rural Water System to each entity that distributes water at retail to individual users.

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

(5) Water supply system.—The term “water supply system” means the Perkins County Rural Water System, Inc., a nonprofit corporation, established and operated substantially in accordance with the feasibility study.

SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) In general.—The Secretary shall make grants to the water supply system for the Federal share of the costs of—
(1) the planning and construction of the water supply system; and

(2) repairs to existing public water distribution systems to ensure conservation of the resources and to make the systems functional under the new water supply system.

(b) Service Area.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, repairs to existing public water distribution systems, and water conservation in Perkins County, South Dakota.

c) Amount of Grants.—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 10.

d) Limitation on Availability of Construction Funds.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system; and

(2) a final engineering report and a plan for a water conservation program have been prepared and submitted to Congress for a period of not less than
90 days before the commencement of construction of the system.

SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. 6. USE OF PICK-SLOAN POWER.

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

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

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

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

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

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

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

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Perkins County Rural Water System, Inc.;

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

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

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

SEC. 8. WATER RIGHTS.

Nothing in this Act—

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

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

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

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

SEC. 9. FEDERAL SHARE.

The Federal share under section 4 shall be 75 percent
of—
(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

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

SEC. 10. NON-FEDERAL SHARE.

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

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

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

SEC. 11. CONSTRUCTION OVERSIGHT.

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

(b) PROJECT OVERSIGHT ADMINISTRATION.—The
amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the
project to be constructed in Perkins County, South Dakota.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $15,000,000 for the planning and construction of the water system under section 4; and

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

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

Attest:

Secretary.
AN ACT

S. 217
105TH CONGRESS

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