

MNI WICONI ACT AMENDMENTS OF 1994 AND BELLE FOURCHE IRRIGATION PROJECT

HEARING BEFORE THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS OF THE COMMITTEE ON NATURAL RESOURCES HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

SECOND SESSION

ON

H.R. 3954

TO EXPAND THE MNI WICONI RURAL WATER SUPPLY PROJECT, AND
FOR OTHER PURPOSES

H.R. 4439

TO EXPAND THE SCOPE OF THE BELLE FOURCHE IRRIGATION
PROJECT, AND FOR OTHER PURPOSES

HEARING HELD IN WASHINGTON, DC
MAY 24, 1994

Serial No. 103-89

Printed for the use of the Committee on Natural Resources



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1994

80-987

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

ISBN 0-16-044676-7

COMMITTEE ON NATURAL RESOURCES

GEORGE MILLER, California, *Chairman*

PHILIP R. SHARP, Indiana
EDWARD J. MARKEY, Massachusetts
AUSTIN J. MURPHY, Pennsylvania
NICK JOE RAHALL II, West Virginia
BRUCE F. VENTO, Minnesota
PAT WILLIAMS, Montana
RON DE LUGO, Virgin Islands
SAM GEJDENSON, Connecticut
RICHARD H. LEHMAN, California
BILL RICHARDSON, New Mexico
PETER A. DeFAZIO, Oregon
ENI F.H. FALCOMAVEGA,
American Samoa
TIM JOHNSON, South Dakota
LARRY LAROCO, Idaho
NEIL ABERCROMBIE, Hawaii
CALVIN M. DOOLEY, California
CARLOS ROMERO-BARCELO, Puerto Rico
KARAN ENGLISH, Arizona
KAREN SHEPHERD, Utah
NATHAN DEAL, Georgia
MAURICE D. HINCHEY, New York
ROBERT A. UNDERWOOD, Guam
SAM FARR, California
LANE EVANS, Illinois
PATSY T. MINK, Hawaii
THOMAS J. BARLOW III, Kentucky
THOMAS M. BARRETT, Wisconsin

DON YOUNG, Alaska,
Ranking Republican Member
JAMES V. HANSEN, Utah
BARBARA F. VUCANOVICH, Nevada
ELTON GALLEGLY, California
ROBERT F. (BOB) SMITH, Oregon
CRAIG THOMAS, Wyoming
JOHN J. DUNCAN, JR., Tennessee
JOEL HEFLEY, Colorado
JOHN T. DOOLITTLE, California
WAYNE ALLARD, Colorado
RICHARD H. BAKER, Louisiana
KEN CALVERT, California
SCOTT McINNIS, Colorado
RICHARD W. POMBO, California
JAY DICKEY, Arkansas

JOHN LAWRENCE, *Staff Director*
RICHARD MELTZER, *General Counsel*
DANIEL VAL KISH, *Republican Staff Director*

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

GEORGE MILLER, California, *Chairman*

SAM GEJDENSON, Connecticut
CALVIN M. DOOLEY, California
NATHAN DEAL, Georgia
PHILIP R. SHARP, Indiana
BRUCE F. VENTO, Minnesota
RICHARD H. LEHMAN, California
PETER A. DeFAZIO, Oregon
KARAN ENGLISH, Arizona
KAREN SHEPHERD, Utah
MAURICE D. HINCHEY, New York
NEIL ABERCROMBIE, Hawaii
LANE EVANS, Illinois
THOMAS M. BARRETT, Wisconsin

ROBERT F. (BOB) SMITH, Oregon
Ranking Republican Member
JAMES V. HANSEN, Utah
BARBARA F. VUCANOVICH, Nevada
JOHN J. DUNCAN, JR., Tennessee
JOHN T. DOOLITTLE, California
WAYNE ALLARD, Colorado
KEN CALVERT, California
RICHARD W. POMBO, California
JAY DICKEY, Arkansas

JOHN LAWRENCE, *Staff Director*
J. STEVENS LANICH, *Legislative Staff*
LINDA GORDON STEVENS, *Clerk*
TED CASE, *Republican Consultant on Oversight and Investigations*

CONTENTS

	Page
Hearing held: May 24, 1994	1
Text of the bills:	
H.R. 3954	2
H.R. 4439	30
Member statements:	
Hon. George Miller	1
Hon. Tim Johnson	34
Witness statements:	
Daniel P. Beard, Commissioner, Bureau of Reclamation, Department of the Interior	41
Reese Peck, deputy secretary, South Dakota Department of Environment and Natural Resources, accompanied by Francis Whitebird, commis- sioner, South Dakota Indian Affairs	54
Panel consisting of:	
Kirk Cordes, vice chairman, board of directors, West River Rural Water System	64
Mel Lone Hill, vice president, Oglala Sioux Tribe, accompanied by Mario Gonzalez, Esq., consultant to Oglala Sioux Tribe on Mni Wiconi Project, and Paul Little, director, Oglala Sioux Rural Water Supply System	69
William Kindle, president, Rosebud Sioux Tribe, accompanied by Fre- mont Fallis, council member, Rosebud Sioux Tribe	98
Boyd Gourneau, council member, Lower Brule Sioux Tribe	114
Mike Kurle, manager, West River/Lyman-Jones Rural Water Sys- tems	120
Duane Odle, president, board of directors, Belle Fourche Irrigation Dis- trict, Newell, SD, accompanied by James Winterton, project manager, Belle Fourche Irrigation District	129

APPENDIX

MAY 24, 1994

Additional material submitted for the hearing record from:	
Hon. Jay Dickey, a Representative in Congress from the State of Arkan- sas: Prepared statement	143
Reese Peck, deputy secretary, South Dakota Department of Environment and Natural Resources: Letter to Chairman Miller from Hon. Walter D. Miller, Governor of the State of South Dakota, dated May 17, 1994	144
State of Wyoming: Letter to Chairman Miller from Hon. Mike Sullivan, Governor of the State of Wyoming, dated May 24, 1994	146
Laborers' International Union of North America: Letter to Chairman Miller from Donald J. Kaniewski, assistant legislative director, dated June 20, 1994, and enclosing prepared statement of Arthur A. Coia, general president, on H.R. 3954 and proposed amendment to H.R. 3954	147
Duane Odle, president, board of directors, Belle Fourche Irrigation Dis- trict: Additional material for the record	152
Francis Whitebird, commissioner, South Dakota Indian Affairs: Prepared statement on H.R. 3954	173
Mike Kurle, manager, West River Rural Water System, Inc./Lyman Jones Water Development Association: Letter to Chairman Miller dated June 1, 1994, along with supplemental statement in response to testimony of Commissioner Beard, Bureau of Reclamation	176

**H.R. 3954, MNI WICONI ACT AMENDMENTS OF
1994; AND
H.R. 4439, AUTHORIZING REHABILITATION OF
THE BELLE FOURCHE IRRIGATION PROJECT**

TUESDAY, MAY 24, 1994

HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATURAL RESOURCES,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
Washington, DC.

The subcommittee met, pursuant to call, at 9:45 a.m. in Room 1324, Longworth House Office Building, Hon. George Miller (chairman of the subcommittee) presiding.

STATEMENT OF HON. GEORGE MILLER

Mr. MILLER. The Subcommittee on Oversight and Investigations will come to order for the purposes of receiving testimony on the Mni Wiconi Project and the Belle Fourche Project. These bills have been introduced by our colleague on the Natural Resources Committee.

The first bill, H.R. 3954, with authorized expansion of the Mni Wiconi Project and the rural water system proposes to serve thousands of people with high-quality water from the Missouri. The second bill, H.R. 4439, would authorize increasing the authorizing cost to expand and complete the rehabilitation of Belle Fourche Project in west-central South Dakota.

I would like to recognize Congressman Johnson at this point and thank him very much for all of his work and his effort leading up to this hearing this morning, and commend him for that effort and hope that we can move both these bills in an expeditious fashion.

[Text of the bills, H.R. 3954 and H.R. 4439, follows:]

103^D CONGRESS
2^D SESSION

H. R. 3954

To expand the Mni Wiconi Rural Water Supply Project, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 1994

Mr. JOHNSON of South Dakota introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To expand the Mni Wiconi Rural Water Supply Project, 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 "Mni Wiconi Act
5 Amendments of 1994".

6 **SEC. 2. REFERENCE.**

7 Whenever in this Act a section or other provision is
8 amended or repealed, such amendment or repeal shall be
9 considered to be made to that section or other provision
10 of the Mni Wiconi Project Act of 1988 (102 Stat. 2566).

1 **SEC. 3. FINDINGS AND PURPOSES.**

2 (a) **FINDINGS.**—Subsection (a) of section 2 (102
3 Stat. 2566) is amended—

4 (1) in paragraph (1), by striking “Reservation”
5 and inserting “Reservation, Rosebud Indian Res-
6 ervation, and Lower Brule Indian Reservation”;

7 (2) by redesignating paragraphs (3), (4), and
8 (5) as paragraphs (4), (5), and (6), respectively, and
9 by inserting after paragraph (2) the following new
10 paragraph:

11 “(3) the lack of water supplies on the Rosebud
12 Reservation and Lower Brule Reservation restrict
13 efforts to promote economic development on those
14 reservations;”;

15 (3) in paragraph (5), as redesignated by para-
16 graph (2) of this subsection, by striking “Reserva-
17 tion;” and inserting “Reservation, Rosebud Indian
18 Reservation, and Lower Brule Indian Reservation;”;
19 and

20 (4) in paragraph (6), as redesignated by para-
21 graph (2) of this subsection, by inserting “Rosebud
22 Indian Reservation and Lower Brule Indian Res-
23 ervation,” after “Reservation,”.

24 (b) **PURPOSE.**—Subsection (b) of section 2 (102 Stat.
25 2566) is amended by inserting “, Rosebud Indian Reserva-

1 tion, and Lower Brule Indian Reservation” after “Res-
2 ervation” each place it appears.

3 **SEC. 4. OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.**

4 (a) AUTHORIZATION.—Subsection (a) of section 3
5 (102 Stat. 2567) is amended—

6 (1) in the matter preceding paragraph (1), by
7 striking “1988.” and inserting “1988, and as more
8 specifically described in the Final Engineering Re-
9 port dated May, 1993.”; and

10 (2) by amending paragraph (3) to read as fol-
11 lows:

12 “(3) facilities to allow for interconnections with
13 the West River Rural Water System, Lyman-Jones
14 Rural Water System, Rosebud Sioux Rural Water
15 System, and Lower Brule Sioux Rural Water Sys-
16 tem;”.

17 (b) CONSTRUCTION REQUIREMENTS.—Subsection (d)
18 of such section (102 Stat. 2568) is amended—

19 (1) by striking “West River Rural Water Sys-
20 tem, and”; and by inserting “West River Rural
21 Water System, the Lyman-Jones Rural Water Sys-
22 tem, the Rosebud Sioux Rural Water System, and
23 the Lower Brule Sioux Rural Water System,”; and

24 (2) by striking “three systems” and inserting
25 “five systems authorized under this Act”.

1 (c) TITLE TO SYSTEM.—Subsection (e) of such sec-
2 tion (102 Stat. 2568) is amended by inserting “or encum-
3 bered” after “transferred”.

4 **SEC. 5. ROSEBUD SIOUX RURAL WATER SYSTEM AND**
5 **LOWER BRULE SIOUX RURAL WATER SYSTEM.**

6 The Act is amended by inserting after section 3 the
7 following:

8 **“SEC. 3A. ROSEBUD SIOUX RURAL WATER SYSTEM.**

9 “(a) AUTHORIZATION.—The Secretary is authorized
10 and directed to plan, design, construct, operate, maintain,
11 and replace a municipal, rural, and industrial water sys-
12 tem, to be known as the Rosebud Sioux Rural Water Sys-
13 tem, as generally described in the Rosebud Sioux Tribe
14 Municipal, Rural and Industrial Water Needs Assessment,
15 dated July 1993, and the Final Engineering Report for
16 the Mni Wiconi Rural Water Supply Project dated May,
17 1993. The Rosebud Sioux Rural Water system shall con-
18 sist of—

19 “(1) necessary pumping and treatment facili-
20 ties;

21 “(2) pipelines extending from the points of
22 interconnections with the Oglala Sioux Rural Water
23 System to the Rosebud Indian Reservation;

24 “(3) facilities to allow for interconnections with
25 the Lyman-Jones Rural Water Supply System;

1 “(4) distribution and treatment facilities to
2 serve the needs of the Rosebud Indian Reservation,
3 and other areas described in the Rosebud Sioux
4 Tribe Municipal, Rural and Industrial Water Needs
5 Assessment, dated July 1993, including (but not
6 limited to) the purchase, improvement and repair of
7 existing water systems, including systems owned by
8 individual tribal members and other residents of the
9 Rosebud Indian Reservation;

10 “(5) appurtenant buildings and property rights;

11 “(6) necessary property and property rights;

12 “(7) electrical power transmission and distribu-
13 tion facilities necessary for services to water systems
14 facilities; and

15 “(8) such other pipelines, pumping plants, and
16 facilities as the Secretary deems necessary and ap-
17 propriate to meet the water supply, economic, public
18 health, and environmental needs of the reservation,
19 including (but not limited to) water storage tanks,
20 water lines, and other facilities for the Rosebud
21 Sioux Tribe and reservation villages, towns, and mu-
22 nicipalities.

23 “(b) AGREEMENT WITH NON-FEDERAL ENTITY TO
24 PLAN, DESIGN, CONSTRUCT, OPERATE AND MAINTAIN
25 THE ROSEBUD SIOUX RURAL WATER SUPPLY SYSTEM.—

1 “(1) In carrying out subsection (a), the Sec-
2 retary, with the concurrence of the Rosebud Sioux
3 Tribal Council, shall enter into cooperative agree-
4 ments with the appropriate non-Federal entity or en-
5 tities for planning, designing, constructing, operat-
6 ing, maintaining, and replacing the Rosebud Sioux
7 Rural Water System.

8 “(2) Such cooperative agreements shall set
9 forth, in a manner acceptable to the Secretary—

10 “(A) the responsibilities of the parties for
11 needs assessment, feasibility, and environmental
12 studies; engineering and design; construction;
13 water conservation measures; and administra-
14 tion of any contracts with respect to this sub-
15 paragraph;

16 “(B) the procedures and requirements for
17 approval and acceptance of such design and
18 construction; and

19 “(C) the rights, responsibilities, and liabil-
20 ities of each party to the agreement.

21 “(3) Such cooperative agreements may include
22 purchase, improvement, and repair of existing water
23 systems, including systems owned by individual trib-
24 al members and other residents located on the Rose-
25 bud Indian Reservation.

1 “(4) The Secretary may unilaterally terminate
2 any cooperative agreement entered into pursuant to
3 this section if the Secretary determines that the
4 quality of construction does not meet all standards
5 established for similar facilities constructed by the
6 Secretary or that the operation and maintenance of
7 the system does not meet conditions acceptable to
8 the Secretary for fulfilling the obligations of the
9 United States to the Rosebud Sioux Tribe.

10 “(5) Upon execution of any cooperative agree-
11 ment authorized under this section, the Secretary is
12 authorized to transfer to the appropriate non-Fed-
13 eral entity, on a nonreimbursable basis, the funds
14 authorized to be appropriated by section 10(a) for
15 the Rosebud Sioux Rural Water System.

16 “(c) SERVICE AREA.—The service area of the Rose-
17 bud Sioux Rural Water System shall extend to all of Todd
18 County, South Dakota, and to all other territory and lands
19 generally described in the Rosebud Sioux Tribe Municipal,
20 Rural and Industrial Water Needs Assessment, dated July
21 1993 and the Final Engineering Report for the Mni
22 Wiconi Rural Water Supply Project dated May 1993.

23 “(d) CONSTRUCTION REQUIREMENTS.—The pump-
24 ing plants, pipelines, treatment facilities, and other appur-
25 tenant facilities for the Rosebud Sioux Rural Water Sys-

1 tem shall be planned and constructed to a size sufficient
2 to meet the municipal, rural and industrial water supply
3 requirements of the Rosebud Sioux Tribe and the Lyman-
4 Jones Rural Water System, as generally described in the
5 Rosebud Sioux Tribe Municipal, Rural and Industrial
6 Water Needs Assessment, dated July 1993, and the Final
7 Engineering Report for the Mni Wiconi Rural Water Sup-
8 ply Project dated May, 1993, taking into account the ef-
9 fects of the conservation plans described in section 5. The
10 Rosebud Rural Water System and Lyman-Jones Rural
11 Water System may be interconnected and provided with
12 water service from common facilities. Any joint costs asso-
13 ciated with common facilities shall be allocated to the
14 Rosebud Sioux Rural Water System.

15 “(e) TITLE TO SYSTEM.—Title to the Rosebud Sioux
16 Rural Water System shall be held in trust for the Rosebud
17 Sioux Tribe by the United States and shall not be trans-
18 ferred or encumbered without a subsequent Act of Con-
19 gress.

20 “(f) TECHNICAL ASSISTANCE.—The Secretary is au-
21 thorized and directed to provide such technical assistance
22 as may be necessary to the Rosebud Sioux Tribe to plan,
23 develop, construct, operate, maintain, and replace the
24 Rosebud Sioux Rural Water System, including (but not
25 limited to) operation and management training.

1 “(g) APPLICATION OF THE INDIAN SELF-DETER-
2 MINATION ACT.—Planning, design, construction, and op-
3 eration of the Rosebud Sioux Rural Water System shall
4 be subject to the provisions of the Indian Self-Determina-
5 tion Act (Public Law 93–638, 25 U.S.C. 450).

6 **“SEC. 3B. LOWER BRULE SIOUX RURAL WATER SYSTEM.**

7 “(a) AUTHORIZATION.—The Secretary is authorized
8 and directed to plan, design, construct, operate, maintain,
9 and replace a municipal, rural, and industrial water sys-
10 tem, to be known as the Lower Brule Sioux Rural Water
11 System, as generally described in the Final Engineering
12 Report for the Mni Wiconi Rural Water Supply Project,
13 dated May 1993. The Lower Brule Sioux Rural Water
14 System shall consist of—

15 “(1) necessary pumping and treatment facili-
16 ties;

17 “(2) pipelines extending from the points of
18 interconnections with the Oglala Sioux Rural Water
19 Supply System to the Lower Brule Indian Reserva-
20 tion;

21 “(3) facilities to allow for interconnections with
22 the Lyman-Jones Rural Water Supply System;

23 “(4) distribution and treatment facilities to
24 serve the needs of the Lower Brule Indian Reserva-
25 tion, including (but not limited to) the purchase, im-

1 provement and repair of existing water systems, in-
2 cluding systems owned by individual tribal members
3 and other residents of the Lower Brule Indian Res-
4 ervation;

5 “(5) appurtenant buildings and property rights;

6 “(6) necessary property and property rights;

7 “(7) electrical power transmission and distribu-
8 tion facilities necessary for services to water systems
9 facilities; and

10 “(8) such other pipelines, pumping plants, and
11 facilities as the Secretary deems necessary and ap-
12 propriate to meet the water supply, economic, public
13 health, and environmental needs of the reservation,
14 including (but not limited to) water storage tanks,
15 water lines, and other facilities for the Lower Brule
16 Sioux Tribe and reservation villages, towns and mu-
17 nicipalities.

18 “(b) AGREEMENT WITH NON-FEDERAL ENTITY TO
19 PLAN, DESIGN, CONSTRUCT, OPERATE AND MAINTAIN
20 THE LOWER BRULE SIOUX RURAL WATER SUPPLY SYS-
21 TEM.—

22 “(1) In carrying out subsection (a), the Sec-
23 retary, with the concurrence of the Lower Brule
24 Sioux Tribal Council, shall enter into cooperative
25 agreements with the appropriate non-Federal entity

1 or entities for planning, designing, constructing, op-
2 erating, maintaining, and replacing the Lower Brule
3 Sioux Rural Water System.

4 “(2) Such cooperative agreements shall set forth,
5 in a manner acceptable to the Secretary—

6 “(A) the responsibilities of the parties for
7 needs assessment, feasibility, and environmental
8 studies; engineering and design, construction;
9 water conservation measures; and administra-
10 tion of any contracts with respect to this sub-
11 paragraph;

12 “(B) the procedures and requirements for
13 approval and acceptance of such design and
14 construction; and

15 “(C) the rights, responsibilities, and liabil-
16 ities of each party to the agreement.

17 “(3) Such cooperative agreements may include
18 purchase, improvement, and repair of existing water
19 systems, including systems owned by individual trib-
20 al members and other residents located on the
21 Lower Brule Indian Reservation.

22 “(4) The Secretary may unilaterally terminate
23 any cooperative agreement entered into pursuant to
24 this section if the Secretary determines that the
25 quality of construction does not meet all standards

1 established for similar facilities constructed by the
2 Secretary or that the operation and maintenance of
3 the system does not meet conditions acceptable to
4 the Secretary for fulfilling the obligations of the
5 United States to the Lower Brule Sioux Tribe.

6 “(5) Upon execution of any cooperative agree-
7 ment authorized under this section, the Secretary is
8 authorized to transfer to the appropriate non-Fed-
9 eral entity, on a nonreimbursable basis, the funds
10 authorized to be appropriated by section 10(a) for
11 the Lower Brule Sioux Rural Water System.

12 “(c) SERVICE AREA.—The service area of the Lower
13 Brule Sioux Rural Water System shall be the boundaries
14 of the Lower Brule Indian Reservation.

15 “(d) CONSTRUCTION REQUIREMENTS.—The pump-
16 ing plants, pipelines, treatment facilities, and other appur-
17 tenant facilities for the Lower Brule Sioux Rural Water
18 System shall be planned and constructed to a size suffi-
19 cient to meet the municipal, rural, and industrial water
20 supply requirements of the Lower Brule Sioux Tribe and
21 the Lyman-Jones Rural Water System, as generally de-
22 scribed in the Final Engineering Report of the Mni Wiconi
23 Rural Water Supply Project, dated May 1993, taking into
24 account the effects of the conservation plans described in
25 section 5. The Lower Brule Sioux Rural Water System

1 and Lyman-Jones Rural Water System may be inter-
2 connected and provided with water service from common
3 facilities. Any joint costs associated with common facilities
4 shall be allocated to the Lower Brule Sioux Rural Water
5 System.

6 “(e) TITLE TO SYSTEM.—Title to the Lower Brule
7 Sioux Rural Water System shall be held in trust for the
8 Lower Brule Sioux Tribe by the United States and shall
9 not be transferred or encumbered without a subsequent
10 Act of Congress.

11 “(f) TECHNICAL ASSISTANCE.—The Secretary is au-
12 thorized and directed to provide such technical assistance
13 as may be necessary to the Lower Brule Sioux Tribe to
14 plan, develop, construct, operate, maintain, and replace
15 the Lower Brule Sioux Rural Water System, including
16 (but not limited to) operation and management training.

17 “(g) APPLICATION OF THE INDIAN SELF-DETER-
18 MINATION ACT.—Planning, design, construction, and op-
19 eration of the Lower Brule Sioux Rural Water System
20 shall be subject to the provisions of the Indian Self-Deter-
21 mination Act (Public Law 93-638, 25 U.S.C. 450).”.

22 **SEC. 6. WEST RIVER RURAL WATER SYSTEM AND LYMAN-**
23 **JONES RURAL WATER SYSTEM.**

24 “(a) SERVICE AREA.—Subsection (d) of section 4 (102
25 Stat. 2569) is amended by striking the period at the end

1 thereof and inserting “, and Final Engineering Report
2 dated May 1993.”.

3 (b) INTERCONNECTION OF FACILITIES AND WAIVER
4 OF CHARGES.—Section 4 of the Act (102 Stat. 2568) is
5 amended by redesignating subsection (f) as subsection (g)
6 and inserting after subsection (e) the following new sub-
7 section:

8 “(f) INTERCONNECTION OF FACILITIES AND WAIVER
9 OF CHARGES.—The Secretary is authorized to inter-
10 connect the Lyman-Jones Rural Water System, and the
11 West River Rural Water System, with each of the other
12 systems authorized under this Act, and to provide for the
13 delivery of water to the West River Rural Water System,
14 and Lyman-Jones Rural Water System, without charge or
15 cost, from the Missouri River and through common facili-
16 ties of the Oglala Sioux Rural Water Supply System,
17 Rosebud Rural Water System and Lower Brule Rural
18 Water System.”.

19 **SEC. 7. WATER CONSERVATION.**

20 Section 5 of the Act (102 Stat. 2570) is amended
21 by striking “The non-Federal parties (including the Oglala
22 Sioux Tribe)” and inserting “Each non-Federal party (in-
23 cluding the Oglala Sioux Tribe, Rosebud Sioux Tribe, and
24 Lower Brule Sioux Tribe)”.

1 **SEC. 8. MITIGATION OF FISH AND WILDLIFE LOSSES.**

2 Section 6 of the Act (102 Stat. 2570) is amended—

3 (1) in subsection (a)—

4 (A) by inserting “, ROSEBUD SIOUX
5 RURAL WATER SUPPLY SYSTEM, LOWER
6 BRULE SIOUX RURAL WATER SUPPLY SYS-
7 TEM,” after “SUPPLY SYSTEM”; and

8 (B) by inserting “Rosebud Sioux Rural
9 Water Supply System, Lower Brule Sioux
10 Rural Water Supply System,” after “Supply
11 System,”; and

12 (2) in subsection (b)—

13 (A) by inserting “, all Indian tribes resid-
14 ing on reservations within the State of South
15 Dakota,” after “South Dakota”;

16 (B) by inserting “and terrestrial” after
17 “wildlife”;

18 (C) by striking “Such plans” and inserting
19 “Such recommendations”; and

20 (D) by adding at the end the following:

21 “The Indian tribes shall be afforded an opportunity to re-
22 view and concur within any recommendations affecting
23 their reservations before they are submitted to Congress.”.

1 **SEC. 9. ESTABLISHMENT OF THE OGLALA SIOUX, ROSEBUD**
 2 **SIOUX AND LOWER BRULE SIOUX BIO-DIVER-**
 3 **SITY TRUSTS.**

4 The Act is amended by inserting after section 6 the
 5 following new sections:

6 **"SEC. 6A. ESTABLISHMENT OF THE OGLALA SIOUX, ROSE-**
 7 **BUD SIOUX AND LOWER BRULE SIOUX BIO-DI-**
 8 **VERSITY TRUSTS.**

9 "(a) **AUTHORIZATION.**—The Secretary shall make
 10 Federal grants to the Oglala Sioux, Rosebud Sioux and
 11 Lower Brule Sioux Bio-Diversity Trusts. The Federal con-
 12 tribution shall not exceed \$16,000,000 and shall be paid
 13 in 5 annual installments beginning in fiscal year 1995 and
 14 expended as provided in the Final Engineering Report and
 15 Environmental Assessment for the Mni Wiconi Rural
 16 Water Supply Project, dated May 1993, required by sec-
 17 tion 3(f) of this Act.

18 "(b) **ELIGIBILITY REQUIREMENTS FOR FEDERAL**
 19 **CONTRIBUTIONS.**—Each Trust shall be eligible to receive
 20 Federal grants under subsection (a) if it—

21 "(1) is established and operated as a nonprofit
 22 corporation under the laws of the Tribe on whose
 23 reservation it will operate;

24 "(2) is incorporated to select and provide fund-
 25 ing to projects that restore, protect and enhance
 26 wildlife and wildlife habitat;

1 “(3) is under the direction of a Board of Trust-
2 ees that—

3 “(A) has the power to manage all the af-
4 fairs of the corporation, including administra-
5 tion, data collection, and implementation of the
6 purposes of the Trust; and

7 “(B) is composed of members that do not
8 serve on any Federal, tribal, or State legislative
9 body, court, agency, commission or board; and

10 “(4) is comprised of not less than 3 persons or
11 more than 5 persons elected to 3-year, staggered
12 terms by the eligible voters of the Tribe on whose
13 reservation the Trust will operate.

14 “(c) OPERATIONAL REQUIREMENTS OF BIO-DIVER-
15 SITY TRUSTS.—The Oglala Sioux, Rosebud Sioux and
16 Lower Brule Sioux Bio-Diversity Trusts shall be deemed
17 to be operating in accordance with this section if—

18 “(1) each Trust is operated to select and pro-
19 vide funding to projects that protect, restore and
20 maintain plant and animal communities and large-
21 scale natural ecosystems in accordance with its cor-
22 porate purposes. Projects eligible for funding include
23 those that—

24 “(A) reconstitute natural biological diver-
25 sity that has been diminished;

1 “(B) assist the recovery of species popu-
2 lations, communities and ecosystems that are
3 unable to survive on-site without intervention;

4 “(C) allow reintroduction and reoccupation
5 by native flora and fauna;

6 “(D) control or eliminate exotic flora and
7 fauna which are damaging natural ecosystems;

8 “(E) restore natural habitat for the re-
9 cruitment and survival of fish, waterfowl and
10 other wildlife;

11 “(F) provide additional conservation values
12 to Indian trust lands;

13 “(G) add to structural and compositional
14 values of existing preserves or enhance the via-
15 bility, defensibility and management of pre-
16 serves; and

17 “(H) restore natural hydrological effects
18 including sediment and erosion control drain-
19 age, percolation and other water quality im-
20 provement capacity;

21 “(2) each Trust is managed in a fiscally respon-
22 sible fashion by investing in private and public fi-
23 nancial vehicles approved by the Secretary with the
24 goal of producing income and preserving principle;

1 “(3) trust funds are deposited in financial insti-
2 tutions other than those used by the Oglala Sioux
3 Tribe, Rosebud Sioux Tribe and Lower Brule Sioux
4 Tribe for their General Funds; the principal will be
5 inviolate, but income from the principal will be used
6 to accomplish the goals of the trust; and expendi-
7 tures of all funds from each trust account shall be
8 based on an annual budget approved by the Sec-
9 retary; and

10 “(4) not less than 10 percent of the interest
11 earned each year from the principal in each account
12 shall be added to the principal.

13 “(d) RESTRICTION ON LOCATION OF PROJECTS TO
14 BE FUNDED BY TRUST.—Projects eligible for funding
15 under this section must be located within the service areas
16 of the Oglala Sioux Rural Water Supply System, the Rose-
17 bud Sioux Rural Water System or Lower Brule Sioux
18 Rural Water System.

19 “(e) REPORTING REQUIREMENTS ON TRUST.—The
20 Secretary shall annually report on the operation and man-
21 agement of each Trust to the Committee on Natural Re-
22 sources and the Committee on Appropriations of the
23 House of Representatives and the Committee on Energy
24 and Natural Resources, the Committee on Appropriations,
25 and the Select Committee on Indian Affairs of the Senate.

1 **“SEC. 6B. ESTABLISHMENT OF THE WEST RIVER AND**
2 **LYMAN-JONES BIO-DIVERSITY TRUST.**

3 “(a) **AUTHORIZATION.**—The Secretary shall make a
4 Federal contribution in the form of a Federal grant to
5 the West River and Lyman-Jones Bio-Diversity Trusts.
6 The Federal contribution shall not exceed \$9,000,000 and
7 shall be paid in five annual installments beginning in fiscal
8 year 1995.

9 “(b) **ELIGIBILITY REQUIREMENTS FOR FEDERAL**
10 **CONTRIBUTIONS.**—The West River and Lyman-Jones
11 Bio-Diversity Trusts shall be eligible to receive Federal
12 contributions pursuant to subsection (a) if they comply
13 with the following requirements:

14 “(1) Each Trust is established and operated as
15 a nonprofit corporation under the laws of the State
16 of South Dakota.

17 “(2) The corporate purposes of each Trust are
18 to select and provide funding to projects that re-
19 store, protect and enhance wildlife and wildlife habi-
20 tat within the West River and Lyman-Jones service
21 areas described in section 4(d) of this Act.

22 “(3) Each Trust is under the direction of a
23 Board of Trustees that has the power to manage all
24 the affairs of the corporation, including administra-
25 tion, data collection, and implementation of the pur-
26 poses of the Trust.

1 “(4) The Board of each Trust is comprised of
2 not less than 3 nor more than 10 persons appointed
3 by the West River Rural Water System and Lyman-
4 Jones Rural Water System recognized in section 4
5 of this Act.

6 “(c) OPERATIONAL REQUIREMENTS OF TRUST.—
7 The West River and Lyman-Jones Bio-Diversity Trusts
8 shall be deemed to be operating in accordance with this
9 section if—

10 “(1) each Trust is operated to select and pro-
11 vide funding to projects that protect, restore and
12 maintain plant and animal communities and large-
13 scale natural ecosystems in accordance with its cor-
14 porate purposes. Projects eligible for funding by the
15 Trust include those that—

16 “(A) reconstitute natural biological diver-
17 sity that has been diminished;

18 “(B) assist the recovery of species popu-
19 lations, communities, and ecosystems that are
20 unable to survive on site without intervention;

21 “(C) allow reintroduction and reoccupation
22 by native flora and fauna;

23 “(D) control or eliminate exotic flora and
24 fauna which are damaging natural ecosystems;

1 “(E) restore natural habitat for the re-
2 cruitment and survival of fish, waterfowl and
3 other wildlife;

4 “(F) add to structural and compositional
5 values of existing preserves or enhance the via-
6 bility, defensibility and management of pre-
7 serves; and

8 “(G) restore natural hydrological effects
9 including sediment and erosion control drain-
10 age, percolation and other water quality im-
11 provement capacity;

12 “(2) each trust is managed in a fiscally respon-
13 sible fashion by investing in private and public fi-
14 nancial vehicles approved by the Secretary with the
15 goal of producing income and preserving principal;
16 and the principal of each trust will be inviolate, but
17 income from the principal will be used to accomplish
18 the goals of the trust;

19 “(3) expenditures of all funds from each trust
20 account shall be based on an annual budget ap-
21 proved by the Secretary; and

22 “(4) not less than 10 percent of the interest
23 earned each year from the principal in each account
24 shall be added to the principal.

1 “(d) **RESTRICTION ON LOCATION OF PROJECTS TO**
 2 **BE FUNDED BY TRUST.**—Projects eligible for funding
 3 under this section must be located within the service areas
 4 of the West River Rural Water System and the Lyman-
 5 Jones Rural Water System.

6 “(e) **REPORTING REQUIREMENTS ON TRUST.**—The
 7 Secretary shall annually report on the operation and man-
 8 agement of each Trust to the Committee on Natural Re-
 9 sources and the Committee on Appropriations of the
 10 House of Representatives and the Committee on Energy
 11 and Natural Resources and the Committee on Appropria-
 12 tions of the Senate.”.

13 **SEC. 10. PROHIBITION OF USE OF FUNDS FOR IRRIGATION**
 14 **PURPOSES.**

15 Section 7 of the Act (102 Stat. 2570) is amended
 16 by striking “Supply System,” and inserting “Supply Sys-
 17 tem, the Rosebud Sioux Rural Water Supply System, the
 18 Lower Brule Rural Water Supply System,”.

19 **SEC. 11. RULE OF CONSTRUCTION.**

20 Section 8 of the Act (102 Stat. 2570) is amended—

21 (1) by inserting “, Rosebud Sioux Tribe, and
 22 Lower Brule Sioux Tribe” after “Tribe”; and

23 (2) by striking “or construct” and inserting
 24 “construct, operate, maintain, or replace”.

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

2 (a) IN GENERAL.—Subsection (a) of section 9 (102
3 Stat. 2570) is amended by striking “sections 3” and in-
4 serting “sections 3, 3A, 3B,”.

5 (b) POWER TO BE USED.—Subsection (b) of section
6 9 (102 Stat. 2570) is amended by striking the period at
7 the end thereof and inserting the following: “on an annual
8 basis. For the purposes of this subsection, the term ‘an-
9 nual basis’ means 12 months out of each calendar year.”.

10 (c) ADDITIONAL POWER.—Subsection (d) of section
11 9 is amended by striking “is authorized to” and all that
12 follows and inserting the following:

13 “shall—

14 “(1) in fulfillment of the Federal Government’s
15 obligations and responsibilities to provide preference
16 power to Indian tribes under Pick-Sloan, provide the
17 Oglala Sioux Rural Water Supply System, Rosebud
18 Sioux Rural Water Supply System and Lower Brule
19 Rural Water Supply System with all additional
20 power necessary at the wholesale firm power rate for
21 Pick-Sloan (Eastern Division) in effect at the time
22 power is sold; and

23 “(2) purchase additional power needed for the
24 West River Rural Water System and Lyman-Jones
25 Rural Water System if necessary under such terms

1 and conditions as the Administrator deems appro-
2 priate.

3 Expenses associated with power purchases under para-
4 graph (2) shall be recovered through a separate power
5 charge, sufficient to recover these expenses, applied to the
6 West River Rural Water System and Lyman-Jones Rural
7 Water System.”.

8 (d) DEFINITIONS.—Subsection (e)(1) of section 9
9 (102 Stat. 2571) is amended by striking “Supply Sys-
10 tem,” and inserting “Supply System, the Rosebud Sioux
11 Rural Water Supply System, the Lower Brule Sioux Rural
12 Water Supply System,”.

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

14 Section 10 of the Act (102 Stat. 2571) is amended
15 to read as follows:

16 **“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

17 **“(a) PLANNING, DESIGN, AND CONSTRUCTION.—**
18 There are authorized to be appropriated \$263,241,000 for
19 the planning, design, and construction of the Oglala Sioux
20 Rural Water Supply System, the Rosebud Sioux Rural
21 Water Supply System, the Lower Brule Sioux Rural
22 Water Supply System, the West River Rural Water Supply
23 System, and the Lyman-Jones Rural Water Supply Sys-
24 tem described in sections 3, 3A, 3B, and 4. Such funds
25 are authorized to be appropriated only through the end

1 of the year 2003. The funds authorized to be appropriated
2 by the first sentence of this section, less any amounts pre-
3 viously obligated for the Systems, may be increased or de-
4 creased by such amounts as may be justified by reason
5 of ordinary fluctuations in development costs incurred
6 after October 1, 1992, as indicated by engineering costs
7 indices applicable for the type of construction involved.

8 “(b) OPERATION AND MAINTENANCE OF OGLALA
9 SIOUX RURAL WATER SUPPLY SYSTEM, ROSEBUD SIOUX
10 RURAL WATER SUPPLY SYSTEM AND LOWER BRULE
11 SIOUX RURAL WATER SUPPLY SYSTEM.—There are au-
12 thorized to be appropriated such sums as may be nec-
13 essary for the operation and maintenance of the Oglala
14 Sioux Rural Water Supply System, Rosebud Sioux Rural
15 Water Supply System and Lower Brule Sioux Rural
16 Water Supply System.

17 “(c) BIO-DIVERSITY TRUSTS.—There is authorized
18 to be appropriated \$26,500,000 for the establishment, op-
19 eration, and maintenance of the bio-diversity trusts estab-
20 lished under sections 6A and 6B of this Act. The Sec-
21 retary shall utilize \$1,500,000 of the funds authorized
22 under this subsection as start-up funds for the trusts. The
23 funds authorized by this subsection may be increased by
24 such amounts as may be justified by reason of ordinary

1 fluctuations in development costs incurred after January
2 1, 1994.

3 “(d) WASTE WATER DISPOSAL SYSTEMS FEASIBIL-
4 ITY STUDIES.—There is authorized to be appropriated
5 such sums as may be necessary to complete the feasibility
6 studies authorized by section 15(c).”.

7 **SEC. 14. WATER RIGHTS.**

8 Paragraph (5) of section 11 (102 Stat. 2571) is
9 amended—

10 (1) by inserting “rights, benefits, privileges or
11 claims, including” after “affect any”;

12 (2) by inserting “Rosebud Sioux Tribe and
13 Lower Brule Sioux Tribe,” after “Tribe,” the first
14 place it appears;

15 (3) by striking “the Pine Ridge Indian Reserva-
16 tion” and inserting “their respective reservations”;
17 and

18 (4) by striking “Tribe,” the second place it ap-
19 pears and inserting “Tribe, Rosebud Sioux Tribe,
20 Lower Brule Sioux Tribe,”.

21 **SEC. 15. FEASIBILITY STUDIES.**

22 (a) ALTERNATE USES.—Section 3 of Public Law 97-
23 273, as amended by section 12(b) of Public Law 100-516
24 (102 Stat. 2572), is amended by striking “Dakota,” and

1 inserting "Dakota and all Indian tribes residing on res-
2 ervations within the State of South Dakota,".

3 (b) WASTE WATER DISPOSAL SYSTEMS.—Section 12
4 of the Act (102 Stat. 2572) is amended by adding at the
5 end the following:

6 "(c) WASTE WATER DISPOSAL SYSTEMS.—(1) The
7 Secretary is authorized and directed, in consultation with
8 the Oglala Sioux Tribe, Rosebud Sioux Tribe and Lower
9 Brule Sioux Tribe, to conduct feasibility studies on the
10 need to develop waste water disposal facilities and sys-
11 tems, and rehabilitate existing waste water disposal facili-
12 ties and systems, on the Pine Ridge Indian Reservation,
13 Rosebud Indian Reservation and Lower Brule Indian Res-
14 ervation, and to report to the Congress the findings of
15 such studies along with his recommendations.

16 "(2) The feasibility studies authorized under this
17 subsection shall be completed and presented to Congress
18 within one year after the date that funds are first made
19 available by the Secretary to complete the studies."

○

103D CONGRESS
2D SESSION

H. R. 4439

To expand the scope of the Belle Fourche irrigation project, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 1994

Mr. JOHNSON of South Dakota introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To expand the scope of the Belle Fourche irrigation project, 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. EXPANSION OF BELLE FOURCHE IRRIGATION**
4 **PROJECT.**

5 (a) AUTHORIZATION OF ADDITIONAL ACTIVITIES.—
6 The Act entitled “An Act to authorize rehabilitation of
7 the Belle Fourche irrigation project, and for other pur-
8 poses.” (Public Law 98–157, 97 Stat. 989) is amended
9 in the first section—

1 (1) by striking "That the general" and insert-
2 ing in lieu thereof, so as to appear immediately after
3 and below the enacting clause, the following:

4 "SECTION 1. (a) The general plan for"; and

5 (2) by adding at the end the following:

6 "(b)(1) In addition to the activities authorized under
7 subsection (a), the general plan for the Belle Fourche
8 project is modified to include the following:

9 "(A) Rehabilitation of the following major
10 water control structures:

11 (i) The Whitewood Siphon.

12 (ii) 2 Belle Fourche dam outlets.

13 (B) Lining at South Canal and rehabilitation
14 of Johnson Lateral for water conservation.

15 (C) Replacement or rehabilitation of deterio-
16 rated canal bridges.

17 (D) Provision of minor lateral rehabilitation
18 and contract support work by the Belle Fourche irri-
19 gation district.

20 (E) Conduct of a detailed study of project-
21 wide water use management and implementation of
22 improved management practices for the purpose of
23 achieving optimal conservation of water supplies.

24 (2) The Federal share of the cost of activities under
25 this subsection may not exceed \$10,500,000. The State

1 share of those costs may not exceed \$4,000,000, and shall
2 be paid concurrently with Federal expenditures for activi-
3 ties under this subsection.”.

4 (b) EXTENSION OF REPAYMENT PERIOD.—Section
5 2(b) of that Act is amended by striking “the year in which
6 such amendatory repayment contract is executed” and in-
7 serting “July 1, 1995”.

8 (c) APPLICABLE RATES OF CHARGE AND ASSESS-
9 ABLE ACREAGE.—Section 2(c) of that Act is amended to
10 read as follows:

11 “(c)(1) Before July 1, 1995, the rates of charge to
12 land class in the unit shall continue to be as established
13 in the November 29, 1949, repayment contract with the
14 district, as subsequently amended and supplemented. On
15 and after July 1, 1995, such rates of charge and assess-
16 able acreage shall, subject to subsection (d), be in accord-
17 ance with the amortization capacity and classification of
18 unit lands as then determined by the Secretary.

19 “(2) After final completion of the rehabilitation and
20 betterment program authorized by this Act, and at inter-
21 vals agreed to by the Secretary and the Belle Fourche irri-
22 gation district, the rates of charge and assessable acreage
23 may be amended as determined necessary by the Sec-
24 retary.”.

1 (d) AUTHORIZATION OF APPROPRIATION.—Section 7
2 of that Act is amended—

3 (1) by inserting “(a)” after “SEC. 7.”; and

4 (2) by adding at the end the following:

5 “(b) In addition to amounts authorized under sub-
6 section (a), for activities under section 1(b) there are au-
7 thorized to be appropriated \$10,500,000, plus or minus
8 such amounts (if any) as may be justified by reason of
9 ordinary fluctuations in construction cost indexes applica-
10 ble to types of construction conducted under that sec-
11 tion.”.

12 (e) AMENDMENT OF CONTRACT.—The Secretary of
13 the Interior and the Belle Fourche irrigation district shall
14 amend the contract numbered 5-07-60-WR170 to reflect
15 the amendments made by this section.

○

**STATEMENT OF HON. TIM JOHNSON, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF SOUTH DAKOTA**

Mr. JOHNSON. Thank you Mr. Chairman.

I want to thank you for holding this hearing in a timely fashion on the legislation I have introduced, the Mni Wiconi Expansion Act of 1994 and the Belle Fourche Act of 1994. These bills are vital to moving forward with water development efforts in South Dakota. Without the help of you, Mr. Chairman, and your staff, most notably Mr. Lanich and Ms. Stevens, our efforts in South Dakota to improve the quality and supply of drinking water would not be nearly as far along as they are today.

As the only Member of the House of Representatives from South Dakota since 1987, I am proud to have worked with you over the past seven years to have legislation passed which will improve the quality of life for so many in my home State.

I also want to thank the Ranking Minority Member, Mr. Smith, and his staff for their cooperation on these issues.

I know that you and members of the committee have become familiar with both the Mni Wiconi and the Belle Fourche Projects, so I will summarize my remarks and ask for my full statement to be submitted for the record.

Mr. MILLER. Without objection.

Mr. JOHNSON. The first bill I want to discuss today is H.R. 3954, legislation to expand the Mni Wiconi rural water supply project. The Mni Wiconi Project is critically important for the western half of South Dakota because it will provide a clean and dependable source of life's basic necessity, water. The source is the Missouri River which runs through the middle of our State. H.R. 3954 will give the Mni Wiconi Project the opportunity to serve far more people in a larger geographical area than was originally envisioned in the authorizing legislation of 1988 by including the Rosebud Indian Reservation and the Lower Brule Sioux Tribe Indian Reservation. Also, people in the originally authorized service territory, which includes the Pine Ridge Indian Reservation and the West River/Lyman-Jones Rural Water System service areas, will now have access to safe drinking water.

Mr. Chairman, Congress has provided almost \$20 million in appropriations through fiscal year 1994. But I want to again emphasize the importance of this project. A large number of South Dakotans are forced to subsist on water of exceedingly poor quality. Most water sources in this part of South Dakota have very high levels of total dissolved solids, sodium, sulfates, chlorides, iron, and even radium. Many reservation water sources are increasingly polluted with biological contaminants and some residents currently must drive or walk for miles to a community pump, filling up buckets and barrels for their daily water needs.

Obviously, the poor water throughout the project area contributes to the health problems in the region. Diabetes, kidney disease, hypertension and a high infant mortality are particularly prevalent on the reservation. On average across the project area, drinking 2.5 quarts of water per day for a year is equivalent to drinking 2 pounds of rock. On top of poor quality, drilling a well is very expensive and can cost up to \$50,000.

In addition to improving the health of residents in the region, I strongly believe that the water delivery project will stabilize the rural economy. Water development and economic development are especially important in helping the residents of the Indian reservations break the cycle of poverty.

Several of the counties in this part of South Dakota are among the poorest in America. This project has and will continue to provide much needed jobs for the region.

I am confident that by providing one of life's key commodities to the region, Congress will also take a fundamental step in meeting its trust responsibilities to these Indian communities.

The five project sponsors and the State of South Dakota have done an excellent job in working together. I commend all of them for the level of cooperation and understanding they have demonstrated.

This vital project has finally become a reality as ground-breaking ceremonies were held in 1993 and the first construction on the project is now well under way. I am also pleased to inform the subcommittee that the Commissioner of the Bureau of Reclamation, Dan Beard, was in South Dakota just last month where he and I had the opportunity to see firsthand the service territory on the Pine Ridge Reservation.

The Commissioner reiterated his support for the project, and in fact the Administration has now supported the project in the President's budget for the past two fiscal years. I am pleased Commissioner Beard will be testifying before the subcommittee today, and I want to take this opportunity to personally thank him for his support for the Mni Wiconi Project as well as the Belle Fourche Project and other water development efforts in South Dakota.

Commissioner Beard did an excellent job when he served as staff director of this committee, and I believe he is doing an equally excellent job as commissioner of the Bureau of Reclamation.

Mr. Chairman, H.R. 4439 is legislation I have introduced to increase the authorization level for the continued rehabilitation level of the Belle Fourche unit of the Pick-Sloan Missouri Basin Program. Rehabilitation efforts of the Belle Fourche Unit began when Congress authorized \$42 million in construction appropriations in 1983.

The Bureau of Reclamation is nearing the end of funding for this effort and will be finished in May of 1995. However, there will be some very important work left incomplete if the authorized level is not increased, including features instrumental to the long-term health of the project to provide meaningful water conservation and environmental benefits.

The Belle Fourche Unit is one of the first irrigation projects of the Bureau of Reclamation going back to the early 1900s. The Administration and the Bureau of Reclamation have continued to be very supportive of the rehabilitation efforts, and I want to commend the Bureau officials from the local office, as well as the district and regional offices, for their hard work and cooperation with the Belle Fourche Irrigation District.

The Bureau's help in drafting the legislation before the subcommittee today is greatly appreciated, as is the visit to the project by Commissioner Beard.

Once again, the commissioner's personal involvement is to be commended, and I am very grateful for the leadership he has provided to the Bureau of Reclamation.

The additional work needed on the Belle Fourche Unit includes reconstruction of the outlet structures at two Belle Fourche dam outlets, lining of the Johnson Lateral canals, replacement of deteriorated bridges on the unit's delivery system, and continuation of drainage and minor construction.

The additional cost ceiling needed to complete this work and improve delivery is \$14.5 million. H.R. 4439 authorizes the Federal cost share at \$10.5 million, and South Dakota's State cost share at \$4 million. The State of South Dakota has been very cooperative and willing to provide a generous cost share to this ceiling increase, and I have appreciated the role they have played in support of this legislation.

Mr. Chairman, I again want to thank you and the members of Committee on Natural Resources for your support. Several South Dakotans will be testifying next, including Reese Peck, Deputy Secretary of the South Dakota Department of Environment and Natural Resources, as well as some of the local project sponsors. I have always appreciated the warm reception these people have received from you, Mr. Chairman, and other members of the subcommittee and from committee staff.

I look forward to continuing to work with you, Mr. Chairman, to advance these bills through the legislative process. I am also available to answer any questions you might have, and I appreciate the opportunity to sit with the subcommittee this morning as we hear from the additional witness panels.

Thank you.

[Prepared statement of Mr. Johnson follows.]

STATEMENT OF THE HONORABLE TIM JOHNSON
 HEARING ON HR 3954, THE MNI WICONI ACT AMENDMENTS OF 1994,
 AND HR 4439, THE BELLE FOURCHE ACT OF 1994

BEFORE THE HOUSE NATURAL RESOURCES SUBCOMMITTEE ON
 OVERSIGHT AND INVESTIGATIONS

GEORGE MILLER, CHAIRMAN

MAY 24, 1994

Mr. Chairman, first I want to thank you for holding this hearing today on legislation I have introduced, HR 3954 and HR 4439. These bills are absolutely vital to moving forward with water development efforts in South Dakota. Without the help of you and your staff, most notably Steve Lanich and Linda Stevens, our efforts in South Dakota to improve the quality and supply of drinking water would not be as far along as they are today. As the only member of the House from South Dakota since 1987, I am proud to have worked with you over the past seven years to have legislation passed which will improve the quality of life for so many in my home State. I also want to thank the Ranking Minority member, Mr. Smith, and his staff for their cooperation on these issues.

HR 3954, The Mni Wiconi Act Amendments of 1994

The first bill I want to discuss today is HR 3954, legislation to expand the Mni Wiconi Rural Water Supply Project. The Mni Wiconi Project is a critically important drinking water project for the western half of South Dakota, and HR 3954 will help bring a clean and dependable source of life's basic necessity -- water -- to even more people than was originally envisioned in the authorizing legislation of Mni Wiconi in 1988. HR 3954 will give the Mni Wiconi Project the opportunity to serve more people and a larger geographical area, including the Rosebud Sioux Tribe on the Rosebud Indian Reservation and the Lower Brule Sioux Tribe on the Lower Brule Indian Reservation. Also, additional people in the originally authorized service territory, which includes the Oglala Sioux Tribe of the Pine Ridge Indian Reservation and the West River/Lyman-Jones Rural Water System service areas, will now have access to safe drinking water.

Mr. Chairman, Congress has become familiar with the Mni Wiconi Rural Water Supply Project in recent years, after passing authorizing legislation in 1988 (Public Law 100-516) and providing almost \$20 million in appropriations through fiscal year 1994. But I want to once again emphasize the importance of this project. A large number of South Dakotans are forced to subsist on water of exceedingly poor quality. This water exceeds Safe Drinking Water Act standards in a number of

areas and the current delivery systems are often either insufficient or nonexistent. Most water sources in this part of South Dakota, whether community water supplies or personal wells, do not meet standards due to high levels of total dissolved solids, sodium, sulfates, chlorides, iron, and even radium. Many Reservation water sources are increasingly polluted with biological contaminants and some residents currently must drive or walk for miles to a community pump, filling up buckets and barrels for their daily water needs.

Obviously, the poor water throughout the project area contributes to the health problems in the region. Diabetes, kidney disease, hypertension and a high infant mortality are particularly prevalent on the Reservation. On average across the project area, drinking two and one-half quarts of water per day for a year is equivalent to drinking two pounds of rock. On top of the poor quality, drilling a well in this region can cost up to \$50,000.

In addition to improving the health of residents in the region, I strongly believe that this water delivery project will stabilize the rural economy. Water is a basic commodity and is essential if we are to ever foster new rural development. Water development and economic development are especially important in helping the residents of the Indian Reservations break the cycle of poverty. Several of the counties in this part of South Dakota are among the poorest in the nation. This project has and will continue to provide much needed jobs for this region. I am confident that by providing one of life's key commodities to this region, Congress will take a fundamental step in meeting its trust responsibility to these Indian communities.

The Mni Wiconi Rural Water Supply Project will deliver reliable, good quality drinking water from a dependable source, the Missouri River, and will result in an improved quality of life, as well as economic development and job creation. The five project sponsors, the Oglala Sioux Tribe, the West River Rural Water System, the Lyman-Jones Rural Water System, the Rosebud Sioux Tribe and the Lower Brule Sioux Tribe, and the State of South Dakota have done an excellent job in working together, and I commend them for the level of cooperation and understanding they have all demonstrated.

The current Administration and the Bureau of Reclamation have also demonstrated their support for this critically important project by including funding in the budget requests made by the Administration over the past two fiscal years. The Commissioner of the Bureau of Reclamation, Dan Beard, and the many Bureau officials who have worked on this project should be commended for their diligent efforts in working with the project sponsors and helping to make Mni Wiconi a reality. I am pleased to inform the Subcommittee that Commissioner Beard was in South Dakota

just last month where he and I had the opportunity to see first hand part of the Project service territory on the Pine Ridge Indian Reservation. I am pleased that Commissioner Beard will be testifying before the Subcommittee today, and I want to take this opportunity to personally thank him for his support for the Mni Wiconi project, as well as the Belle Fourche project and other water development efforts in South Dakota. Commissioner Beard did an excellent job when he served as the Staff Director of this Committee, and I believe that he is doing an equally excellent job as Commissioner of the Bureau of Reclamation.

I do not believe our needs get any more basic than good quality, reliable drinking water, and I appreciate the fact that Congress has shown support for the Mni Wiconi Project over the past few years. I look forward to continue working with my colleagues and to the continued support of Congress for the Mni Wiconi Rural Water Supply Project.

HR 4439, The Belle Fourche Act of 1994

Mr. Chairman, HR 4439 is legislation I have introduced to increase the authorization level for rehabilitation and betterment of the Belle Fourche Unit of the Pick-Sloan Missouri Basin Program. The rehabilitation efforts of the Belle Fourche Unit began after Congress authorized \$42 million in construction appropriations in 1983 (Public Law 98-157). The Bureau of Reclamation is nearing the end of the funding for this effort and will be finished in May of 1995. However, there will be some very important work left incomplete if the authorized amount is not increased, including features that are instrumental to the long term health of the project and provide meaningful water conservation and environmental benefits.

The Belle Fourche Unit is one of the first irrigation projects of the Bureau of Reclamation, going back to the early 1900's. The Administration and the Bureau of Reclamation have continued to be very supportive of the rehabilitation efforts, and I want to commend the Bureau officials from the local office, as well as the district and regional offices, for their hard work and cooperation with the Belle Fourche Irrigation District. The Bureau's help in drafting the legislation before the Subcommittee today is greatly appreciated, as is the visit to the project by Commissioner Beard. Once again, the Commissioner's personal involvement is to be commended, and I am very grateful for the leadership he has provided for the Bureau of Reclamation.

The additional work needed on the Belle Fourche Unit includes: the repair of the Whitewood Siphon and construction of a grade control downstream from the siphon; reconstruction of the outlet structures at Orman Dam; lining of the Johnson Lateral; and replacement of deteriorated

bridges on the Unit's delivery system. The additional cost ceiling needed to complete this work and continue to improve delivery is \$14.5 million. HR 4439 authorizes the federal cost share at \$10.5 million and State cost share at \$4 million. The State of South Dakota has been very cooperative and willing to provide a generous cost share to this ceiling increase, and I appreciate the role they have played and their support for this legislation.

Mr. Chairman, again I want to thank you and the members of the Committee on Natural Resources for the continued support the Committee has demonstrated over the years for the Mni Wiconi Project and water development efforts in South Dakota.

Mr. MILLER. Thank you.

I will now hear from Commissioner Beard and Deputy Secretary Peck. You are going to testify on both projects, right?

Mr. BEARD. Yes.

Mr. MILLER. We will do it at the same time.

STATEMENT OF DANIEL P. BEARD, COMMISSIONER, BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

Mr. BEARD. Thank you, Mr. Chairman. Thank you for the opportunity to be here today. I think rather than read both statements I would just like to submit them for the record and then summarize them jointly, if I could.

Let me begin with H.R. 3954, the bill that would expand the Mni Wiconi water supply project. This bill really represents an unprecedented collaborative effort among the three Indian tribes in the area, two non-Indian water supply systems, to develop a common rural water supply. It will provide, I think, much-needed, good quality water for domestic and livestock use for southwestern and South Dakota.

The Administration supports this cooperative effort and applauds the diligence and persistence of the South Dakota congressional delegation, the five project sponsors, their consultants, and all the interested groups in South Dakota, which have really led to a consensus on this project.

The Administration is very concerned, however, that the bill requires an excessive Federal cost share for the non-Indian component. The administration plans to work with the committees to achieve an agreement on a cost sharing that we can support.

Our support for this legislation is based on the need to provide safe and adequate water supply to the Indian reservations and the other residents of this area. Many homes are without water service. Supplies are limited, and water quality falls below acceptable standards.

Congressman Johnson mentioned our recent visit to the area, where these problems were really highlighted. That was, incidentally, my second trip to the area, accompanied by members of the Pine Ridge Reservation, the Oglala Sioux Tribe, to look firsthand at some of the problems they have in that area.

I think another important benefit of this project will be the training and employment of tribal members to develop and construct and operate and maintain these facilities.

H.R. 3954 is the culmination of the needs assessment, the final engineering report, a water conservation plan, and an environmental assessment prepared by the project sponsors and their consultants as required by Public Law 100-516.

We were pleased to work closely with them to undertake these efforts. They did a commendable job. And the final engineering report, which constitutes the detailed plan for the project, underwent extensive review and was submitted to the Congress in September 1993.

The plan developed is both technically and environmentally sound. The 1988 legislation authorizing this project authorized appropriations of \$120 million to plan and construct the Mni Wiconi Project. The Congress required several prerequisites for obligating

Federal funds for construction, including the completion of the final engineering report, meeting NEPA requirements, and having the water conservation plans in place.

The Oglala Sioux Tribe and their sponsors have met these prerequisites, and construction in the service area was begun this year.

This legislation will basically double the physical size of the Mni Wiconi Project, and the populations served by that project. For example, the customers served will increase from \$22,000 to \$52,000 in the area. The total cost of the project will increase from \$124 million to \$263 million.

The Administration recognizes that this is a significant increase in Federal funding for this project. But there is a clear Federal responsibility to provide a reliable water supply to the three reservations.

This is the only possible approach I know of for correcting this problem. And as I said earlier, the Administration agrees we should proceed with the construction of the larger project. It simply makes sense to meet the needs of the Indian and non-Indian residents at the same time.

However, I should stress that we have concerns about the Federal cost-share requirements for the expanded Lyman-Jones/West River portion. The current bill language is not consistent with the current Federal policy for non-Indian water resource projects. That policy requires that non-Federal interest repay at the current interest rates, 100 percent of the project costs for municipal and industrial water supply systems.

The department also has a number of detailed recommendations to the sponsors' final engineering report, which are still under review within the Administration.

In summary, we will make three recommendations. The first is, we will recommend expanding the project to meet full needs of the three Indian reservations as proposed by this project. In essence, this is option four in the engineering report.

Second, we will recommend expanding the project to meet full needs in the Lyman-Jones/West River service areas only if the cost of the expansion is 100 percent non-Federal.

And third, we will recommend scaling back the proposed \$26 million trust fund for Fish and Wildlife recommended in H.R. 3954.

The Administration supports providing certain Fish and Wildlife benefits to the three Indian reservations and will support a \$10.7 million trust fund for the development and implementation of Fish and Wildlife plans. But we do think it ought to be limited to the Pine Ridge, Rosebud and Lower Brule Sioux Indian Reservations.

We believe this legislation should proceed even though we haven't submitted our final detailed comments on the final engineering report.

Now, with respect to H.R. 4439, the other bill under consideration, this would increase the authorization ceiling for the Belle Fourche Project. Mr. Chairman, passing this legislation provides us with a unique opportunity to complete construction work at the Belle Fourche Project in a timely manner. The bill would authorize appropriations of an additional \$10.5 million so that all work identified for this project will be completed within the next two years.

This work will include repairing the siphon to protect an EPA Superfund site, lining of canals to repair outlet structures, and updating deteriorating bridges.

The Administration is pleased to support this bill if it is amended to address the following issues. First, there should be a cap on Federal expenditures of \$10.5 million.

Second, repayment of these costs ought to be done within a 25-year period.

Third, a requirement that conserved water from the lining of the canals will be made available for instream flows and/or recreation.

And finally, a fourth requirement would be for measurement of all water deliveries to irrigators and the establishment of conservation-oriented water rates.

Finally, it must be pointed out that even though we support both bills, the department in response to an Inspector General audit has agreed to undertake a thorough examination of the Federal-State partnership for land and water resource investment in the Missouri River Basin. We will soon be initiating a dialogue with each of the States in the basin to identify new cost sharing and cost allocation procedures prior to undertaking major new water-related initiatives in this area.

Again, Mr. Chairman, thank you for this opportunity to be with you this morning. I would be happy to answer any questions.

[Prepared statement of Mr. Beard follows:]

STATEMENT OF DANIEL P. BEARD
COMMISSIONER, BUREAU OF RECLAMATION
BEFORE THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
OF THE COMMITTEE ON NATURAL RESOURCES

ON H.R. 3954,

A BILL TO EXPAND THE MNI WICONI RURAL WATER SUPPLY PROJECT IN SOUTH DAKOTA

May 24, 1994

Mr. Chairman, I am pleased to appear before the Subcommittee today to discuss H.R. 3954, a bill to expand the Mni Wiconi Water Supply Project, and for other purposes. This bill represents an unprecedented collaborative effort among three Indian Tribes and two non-Indian systems to develop a common rural water supply system which will provide much-needed, good quality water for domestic and industrial uses in a large portion of southwestern South Dakota.

The Administration supports this cooperative effort, and applauds the diligence and persistence of the South Dakota congressional delegation, the five project sponsors, their consultants, and other interested groups in South Dakota which led to a consensus on this project. The Administration is very concerned, however, that the bill requires an excessive Federal cost share for the non-Indian component. The Administration plans to work with the committees to achieve an agreement on cost-sharing that we can support.

H.R. 3954 is the culmination of needs assessments, a final engineering report, water conservation plans, and an environmental assessment that were prepared by the project sponsors and their consultants, under Public Law 100-516, the authorizing legislation for the Mni Wiconi Project. Reclamation worked closely with the five sponsors and their consultants as they developed and analyzed plans to meet their varied needs. Collectively they did a commendable job. The Final Engineering Report -- which constitutes the detailed plan for the project-- underwent extensive review, and was transmitted to the Congress by the Secretary on September 2, 1993. The plan developed is both environmentally and technically sound.

H.R. 3954 would authorize expanding the Mni Wiconi Project to: (1) meet fully the water needs of people living within the Pine Ridge Indian Reservation and the Lyman-Jones/West River Service Areas; and (2) include systems to meet water needs of the Rosebud and Lower Brule Sioux Indian Tribes. The bill would also authorize a \$26,500,000 Bio-Diversity Trust to develop and implement a plan for the project area for fish, wildlife, and natural resources. The bill also authorizes feasibility studies on the need to develop or rehabilitate waste water systems on the three Indian Reservations.

The original 1988 authorization for the Mni Wiconi Project provided \$120 million (1992 indexed cost) to plan and construct the Oglala Sioux Rural Water Supply System and the Lyman-Jones/West River Rural Water Supply Systems. Prerequisites for obligating Federal funds for construction included completing the Final Engineering Report, meeting NEPA requirements, and having water conservation plans in place. The Oglala Sioux Tribe and Lyman-Jones/

West River met these prerequisites, and construction in the service areas is beginning in fiscal year 1994.

H.R. 3954 will basically double the size of the Mni Wiconi Project. The population served will increase from 22,136 to 51,635. Livestock serviced will increase from 152,767 to 274,811 animal units, as ranching is the principal industry in the service area. Total system capacity will increase from 6,460 gallons per minute to 13,590 gallons per minute. Construction costs will also increase from \$123,903,000 to \$263,241,000. However, due to economies of a larger project, per capita construction costs go down by about 10 percent. Over the 10-year construction period, annual construction-related employment generated by the project is estimated at 236 jobs. Project operation, maintenance, and replacement activities are expected to create 114 long-term jobs.

As I said earlier, the Administration does have a concern about the Federal cost-share requirements for expanding the Lyman-Jones/West River water supply system contained in this bill. It is not consistent with current Federal policy for non-Indian water resource projects. That policy requires that non-Federal interests repay -- at current interest rates -- 100 percent of project costs for municipal and industrial water supply systems.

The Department of the Interior has drafted recommendations on the sponsors' Final Engineering Report, which provides the basis for this bill. These recommendations are still under review within the Administration, but can be summarized as follows:

1. Expand the project to meet full needs of the three Indian Reservations, as proposed by this bill.
2. Expand the project to meet full needs in the Lyman-Jones/West River service areas only if the cost of this expansion is 100 percent non-Federal. Further, Lyman-Jones/West River should pay for the corresponding cost increase of the Oglala Sioux Rural Water Supply System which is attributable to increasing core system capacity, and pay their prorated share of all core system operation, maintenance, and replacements costs. Estimated cost of the service area expansion is \$22,815,000, and the estimated cost increase to the core system is about \$5,223,000. Lyman-Jones/West River's share of core system operation, maintenance, and replacement costs would range from 40 percent to 60 percent, which would cost them about \$1 million per year. By contrast, H.R. 3954 provides a 65-percent Federal grant for the service area expansion and all core system costs remain as a 100 percent Federal obligation.
3. Scale back the proposed \$26.5 million for the trust funds for fish, wildlife and natural resources recommended by the project sponsors in the Final Engineering Report. The Administration supports providing certain fish and wildlife benefits to the three Indian Reservations, and will support a \$10.75 million trust fund for the development and implementation of a fish, wildlife, and natural resources plan that is limited to the Pine Ridge, Rosebud, and Lower Brule Sioux Indian Reservations. Opportunities to improve fish, wildlife and natural resource management on Reservation lands have been

identified. Many of the opportunities involve items of national interest, such as: creating and restoring wetlands; riparian restoration; reducing erosion through improved grazing systems; forest restoration and tree planting; and resource planning. A South Dakota Biological Diversity Trust and a South Dakota Wetland Trust have already been authorized under Title 32 of P.L. 102-575.

Mr. Chairman, I want to emphasize that our support of efforts to expand the Mni Wiconi Project is based on the need to provide a safe and adequate water supply to the residents of this rural area of South Dakota. Many homes are without water service, present supplies are limited and water quality falls below acceptable standards. An important additional benefit from the rural water system and the fish, wildlife, and natural resources plan will be the training and employment of reservation residents to develop, construct, operate, and maintain these programs. On these reservations, per capita income is as low as \$1,042 per year and unemployment runs as high as 86 percent.

It must also be pointed out that even though there is support for this project, the Department -- in response to an Inspector General's audit -- has agreed to undertake a thorough examination of the Federal-State partnership for land and water resource development in the Missouri Basin. We will soon be initiating a dialogue with each of the states of the Missouri Basin to identify new cost-sharing and cost allocation procedures, prior to undertaking major new water-related initiatives in the Basin.

Mr. Chairman and Members of the Subcommittee, that concludes my testimony on H.R. 3954. I would be happy to answer any questions you may have.

STATEMENT OF DANIEL P. BEARD
COMMISSIONER, BUREAU OF RECLAMATION
BEFORE THE SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
OF THE COMMITTEE ON NATURAL RESOURCES
ON H.R. 4439

Mr. Chairman, I am pleased to appear before the Subcommittee to testify on H.R. 4439, a bill to expand the scope of the Belle Fourche irrigation project, and for other purposes. The Administration supports this bill, if it is amended to address certain issues discussed in my testimony.

This bill represents a cooperative effort between the Bureau of Reclamation and the State of South Dakota to provide the funding necessary to complete project rehabilitation work already underway and to provide water conservation, as well as fish, wildlife, and environmental benefits.

The Belle Fourche Project was reauthorized as a Unit of the Pick-Sloan Missouri Basin Program under Public Law 98-157 on November 17, 1983. Appropriations of \$42 million for construction, based on 1981 prices, were authorized for rehabilitation and betterment of the irrigation facilities and for recreation, fish and wildlife measures. Work on the Unit has been ongoing since 1986, in accordance with the plan in Reclamation's January 1981 Rehabilitation and Betterment Report.

Reclamation, in consultation with the Belle Fourche Irrigation District and the State of South Dakota, has determined that the construction ceiling must be raised in order to accomplish work on critical project features that cannot be rehabilitated under the present appropriation ceiling. The work entails construction on unit features essential to the long-term viability of the delivery system.

Completion of these critical project features will cost about \$14.5 million, which will be borne by both the State of South Dakota and the Federal Government. The additional appropriation ceiling required for the Federal share is capped at \$10.5 million. This bill requires that the State of South Dakota provide \$4 million in concurrent funding. However, the State's share should not be capped at \$4 million, in order to provide the State more flexibility if it chooses to fund additional work in the future.

The total Federal obligation identified for the current Belle Fourche construction program in Reclamation's FY 1995 Budget request is \$51,851,000, based on October 1994 construction prices. Construction under the existing ceiling is scheduled to be substantially complete by May 1995.

The additional work authorized by this bill includes:

- o Protection and repair of the Whitewood Siphon, a structure

that lies within an EPA Superfund site along Whitewood Creek;

- o Reconstruction of the outlet structures at Belle Fourche Dam, the Unit's primary water control and storage structure;
- o Lining two reaches of the South Canal;
- o Lining, structure replacement, and siphon construction on Johnson Lateral, one of the Unit's largest and oldest irrigation laterals;
- o Replacement of deteriorating bridges lying along the Unit's more than 500 miles of canals, laterals, and open drains; and
- o A continuation of contract support work and small lateral rehabilitation by the Belle Fourche Irrigation District.

Rehabilitation of the Whitewood Siphon and the two Belle Fourche Dam outlets is critical to the long-term viability of the Unit's delivery system. Failure of the Whitewood Siphon would result in stream degradation on Whitewood Creek -- an EPA Superfund site -- and result in downstream contamination from eroded mine tailings and hazardous chemicals located along the creek. In addition, failure of any one of these facilities would jeopardize water service to a significant percentage of the irrigated lands within the Unit.

The bill should be amended to ensure that the repayment of Federal funds authorized by H.R. 4439 can be done in accordance with Reclamation's new repayment policy. This new policy, established in May 1993, states that "the maximum term for new or renewed long-term contracts executed pursuant to Reclamation law shall be 25 years."

Significant conservation benefits will be achieved through other components of the additional work. It is estimated that over 5,000 acre-feet of water can be saved annually by membrane lining on the Unit's South Canal, further rehabilitation of Johnson Lateral, and additional irrigation lateral construction. Water conserved through lining and pipe construction should be dedicated to the protection and enhancement of instream flows on the Belle Fourche River below the Unit's diversion dam. When the legislation is enacted, the Federal government will work with the State of South Dakota to ensure, by memorandum of agreement, the balanced use of the conserved water so that as much water as is possible will be used for instream flows and to maintain recreation opportunities at Keyhole Reservoir in Wyoming.

The proposed work on Johnson Lateral would also reduce the Belle Fourche Irrigation District's dependence on storage in Keyhole Reservoir, an upstream Reclamation storage facility on the Belle Fourche River where recreation use has been affected by irrigation deliveries during recent drought periods. Since the Johnson Lateral is dependent on storage in Keyhole Reservoir, the anticipated water conservation benefits would reduce the demand

on this facility and allow Reclamation to maintain higher reservoir levels for enhanced recreational use.

Preservation of public transportation routes is also a component of this legislation. The deteriorating condition of the network of public bridges as well as the operation and maintenance of bridges that span the Unit's system of more than 500 miles of canals, laterals, and open drains has been a source of concern over the past several years. Most of the structures have deteriorated to the point where they are in need of rehabilitation or replacement. Many of them pose an increasing threat to both public safety and the continued operation of the delivery system. County governments and the Belle Fourche Irrigation District have identified a need to rehabilitate these Unit features to ensure continued use. Neither the district nor the counties have the resources to repair or replace these structures.

Under the current authorization, environmental compliance has been done in accordance with an Environmental Assessment and a Finding of No Significant Impact completed in 1980, and a Fish and Wildlife Coordination Act Report completed in 1988. Similar documents would be prepared to address environmental commitments associated with the proposed additional construction.

In addition to structural rehabilitation, certain non-structural improvements are also planned as part of this legislation. The efficient delivery and management of water by the Belle Fourche Irrigation District in the future will be evaluated through a comprehensive water use management study that will identify and evaluate delivery system and on-farm efficiency improvements. This can be completed by Reclamation, with cooperation from the Soil Conservation Service, over the two-year extension period anticipated for the additional work. Before initiating work authorized under this bill, Reclamation intends to secure the District's commitment to measuring all water deliveries to irrigators, and to the establishment of conservation-oriented water rates.

Mr. Chairman, I believe there is a responsibility to complete work on certain critical features of the Belle Fourche Unit that cannot be satisfactorily restored under the present appropriation ceiling. I also believe this work will provide an opportunity for additional environmental and conservation benefits that cannot be attained under the current ceiling. This increase in the project's construction ceiling has strong local support, as evidenced by the substantial financial commitment being offered by the State of South Dakota. These are the reasons why the Department is supporting this legislation although Reclamation has committed, in its Blueprint for Reform, to phasing out the Rehabilitation and Betterment Program.

It must also be pointed out that even though there is support for this project, the Department -- in response to an Inspector General's audit -- has agreed to undertake a thorough examination of the Federal-State partnership for land and water resource development in the Missouri Basin. We will soon be initiating a dialogue with each of the states of the Missouri Basin to identify new cost-sharing and cost allocation procedures, prior to undertaking major new water-related initiatives in the Basin.

That concludes my testimony on H.R. 4439. I will be happy to answer any questions Subcommittee Members may have.

Mr. MILLER. Thank you very much.

Do you have any questions of Dan you want to ask now?

Mr. JOHNSON. Understanding Commissioner Beard's schedule and time constraints, I would simply say first of all that I think the statement of Mr. Beard this morning amounts to a significant victory for the State of South Dakota.

We do have the Federal Government on the side of these two bills. We can work with the Government on some concerns expressed by Mr. Beard. But the fact that the White House has taken the side of both the Mni Wiconi expansion and the Belle Fourche authorization expansion I think is critically important. And I just want to thank Dan for his personal attention to these matters.

We spent a considerable amount of time in South Dakota visiting a home on the Pine Ridge Reservation where there simply was no water. The living conditions were I think simply abominable. The Mni Wiconi Project will go a long way towards addressing at least some of the problems that exist on the most impoverished area in all of the United States.

Obviously, this is a coalition that needs to hold together. The Native American community is going to have a hard time getting the water without the cooperation of the non-Indian community. The non-Indian community isn't going to get any water without the cooperation from the Native American community. There has been a real mutuality here, and I am proud of the way that Indian and non-Indian communities have worked together and will continue to work together to make sure we have a viable Mni Wiconi water project.

Dan, on the Belle Fourche, it is particularly important if we are going to finish this project to do it now. As I understand it, the personnel is there now. They are coming to the end of their existing contract. It would make no sense to uproot all their personnel and bring them back at some later time. If we are going to do it, this is the time to do it.

Mr. BEARD. Yes, I think it is very important to point out with respect to Belle Fourche, we have had people working there for I think five to seven years. We now anticipate completing the work that was authorized in the early 1980s in May of next year.

We have the staff there. We would prefer that this legislation be passed as quickly as possible so that we could keep the people there, make sure that we have the same construction crew, the same facilities, and just keep them there and finish the work that has been identified.

We anticipate it will take us about two years to complete that work. I think the State of South Dakota has come forward with a very good-faith effort to provide approximately a third of the cost of this additional work. And there are substantial benefits that are going to be received from this work.

I think in particular, by lining canals, we are going to conserve approximately 5,000 acre-feet of water, which is of benefit not only to the State of South Dakota, which we hope can be made available for instream flows, but also is of benefit to the State of Wyoming, where one of the reservoirs is located, in the State of Wyoming, and there has been concern about the level of the lake for recreation

purposes. This will enable to us keep the level up and continue to provide recreation in Wyoming as well.

So certainly it makes a lot of sense to provide this legislation as quickly as possible.

Mr. MILLER. Let me just ask two questions. One is on the Mni Wiconi. What exactly is your expected role for the Bureau here?

Mr. BEARD. Our role has really been one of a technical adviser, and a financier, if you will. Federal appropriations are made available to the Secretary, who in turn makes them available to the project sponsors.

We have worked closely with them to try to develop a mechanism by which the Indian and non-Indian systems can work together and have a joint board for overseeing the work. I must tell you that I had my doubts as to whether or not it would work, and for several years it didn't work. It took them two or three years to really sit down and develop a working relationship.

And I think, as Congressman Johnson mentioned in his testimony, we have achieved that. We have got a very good working relationship between the Lyman-Jones/West River sponsors as well as Pine Ridge Reservation, the Oglala Sioux Tribe, and we anticipate having a similar kind of relationship with Rosebud and Lower Brule.

This has really been a remarkable effort to see how people have come together with a common interest to try to make this thing work because, to be perfectly honest, there aren't a lot of alternatives out there for water supply.

Groundwater is contaminated and spotty. Surface water is also contaminated, and there isn't a lot of it available.

I think basically for basic services as well as any hope for economic development in the region, we are going to have to have a reliable water supply. And this project offers the only hope. There simply are no other alternatives that I know of.

Mr. MILLER. As this project is built, so that we don't repeat history, will attention be given to the sequencing of benefits between Indians and non-Indians? In other words, I assume the Indian tribes here will get their benefits on a timely basis?

Mr. BEARD. Yes, I think the most important thing, the reason why this legislation is so important is that we are really at a critical point in the planning and construction effort. The actual engineering work is not that complicated. We either build the pumping plant one size or another, and the pipe is either one size or another. So the technical aspects aren't important. The key is how big a service area you are going to have and where is it located.

And I think that is why we believe this legislation ought to go forward as quickly as possible. We are not going to let history repeat itself, however, and build the non-Indian portions first, and ultimately get to the Indian portions last. In fact, I think in this case we have done exactly the reverse.

We have been doing construction work at the end of the line in the White Clay Wapani area and other places on the Pine Ridge Reservation, and we have also done a little work in some of the non-Indian areas where it was feasible to put a distribution system out there and use some modest local supplies.

So we have gone out and done some of that work in fiscal year 1994. That will continue in 1995. When we get into 1995, we really need to get into the core system, which is the important thing.

So I am fully confident we are not going to have the problem you mentioned, and I also think members of the tribe will support my conclusion as well when they come up to testify.

We have had a lot of lessons in the past where that has been the case. We don't need to duplicate it here.

Mr. MILLER. Thank you.

Mr. Allard.

Mr. ALLARD. Thank you, Mr. Chairman.

I have in your written testimony here that you said that the Administration is very concerned, however, that the bill requires an excessive Federal cost share for the non-Indian component.

And my question is, Are you concerned enough to recommend the veto if this legislation reaches the President's desk?

Mr. BEARD. I think that is premature because I am confident that we can work out the differences on the legislation as it works its way through the legislative process.

We did this in 1988. There were similar concerns of the previous Administration. And I think we worked out a formula that was a very successful formula and was acceptable enough to the previous Administration that they signed a bill and have supported the legislation.

So I don't think it is necessary at this point to talk about possible vetoes for that particular kind of an item.

Mr. ALLARD. And from your perspective, you think the party you are negotiating with will be willing to move their position, you would be willing to move your position that you think there is a good chance or that there will be a compromise reached?

Mr. BEARD. Yes. I certainly do. You know, I think there is no doubt that the residents of this area are—this is not Beverly Hills, let's put it that way. We are dealing with an area that is struggling to make it on a day-to-day basis. And their ability to come up with funding for this project, particularly in the non-Indian areas, is limited.

We have pushed, you know, in the areas where the project is under construction. We have pushed very hard, and I think we have got a good formula. What we are going to be doing is making water available in some other areas that currently wouldn't have been a participant in this project. And we are going to be going to those folks to talk to them about the possibility of getting additional funding.

It is not going to be easy. And it certainly is going to be more than they want to pay. But I think we can work out an acceptable arrangement.

Mr. ALLARD. I am pleased to hear that you recognize the fact that a lot of our agricultural communities and our small communities don't have a lot of the financial resources as the urban areas. There has to be some concern shared about that position that they find themselves in frequently, and that their membership does not have the income there to proceed without some help from the Federal Government.

Mr. BEARD. I think the problem that we have there is a problem that is very typical in rural America, and that is that the distances are very large and the number of people you are working with is very small. And as a result, the ability to finance is, you know, your end of the bargain, so to speak, is very difficult. It is marginal at best.

That has always been the problem with REA or rural telephone system or any other kind of rural program. And it is no different from rural water supply systems. So there has to be some assistance here in some way.

Mr. ALLARD. Thank you, Mr. Chairman.

Mr. MILLER. Thank you, Mr. Beard.

Any further questions?

Thank you for your testimony. We look forward to ironing out this problem with the Administration. Thank you.

Mr. MILLER. Mr. Peck, welcome to the committee. Your full statement will be placed in the record and you may proceed in the manner in which you are most comfortable.

STATEMENT OF REESE PECK, DEPUTY SECRETARY, SOUTH DAKOTA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, ACCOMPANIED BY FRANCIS WHITEBIRD, COMMISSIONER, SOUTH DAKOTA INDIAN AFFAIRS

Mr. PECK. Mr. Chairman, members of the committee, I am Reese Peck, the Deputy Secretary of the South Dakota Department of Environment and Natural Resources. I am appearing before you today on behalf of Governor Walter D. Miller and the State of South Dakota to express our support of the amendments to the Belle Fourche Irrigation Project and the Mni Wiconi Rural Water System.

Governor Miller expresses his regrets in not being able to attend today's hearings. He has written a letter of support to Chairman Miller, and I will be submitting the letter as written testimony.

In 1987, the late Governor George S. Mickelson initiated a study to determine South Dakota's contemporary water development goals. As a result of that process, a number of priority water projects were identified. Included in these projects were the Belle Fourche Irrigation Project and the Mni Wiconi Rural Water System.

South Dakota strongly supports water investment. In 1993, the South Dakota legislature established a dedicated funding source for major water development projects. The State of South Dakota is committed to seeking significant non-Federal cost share on both projects through the use of this dedicated funding source.

The Belle Fourche Irrigation Project was built in the early 1900s. In 1983, Federal funds were authorized to modernize the project to address safety and efficiency concerns.

As rehabilitation efforts progressed, it became evident that the authorized funding levels would not be adequate to address areas for rehabilitation that were needed. The Bureau of Reclamation worked with the local project sponsors and identified additional needs such as the repair of Whitewood siphon and the Orman dam outlet structure.

Reclamation Commissioner Dan Beard visited the Belle Fourche Irrigation Project in December of 1993. I commend Commissioner

Beard and the Bureau of Reclamation for their efforts in working with the project sponsors in the State of South Dakota to assess the needs of this project and weigh the various alternatives.

The outcomes of these efforts are reflected in H.R. 4439. As part of this effort, the Department is committed to seeking \$4 million in cost share to complete the rehabilitation of the Belle Fourche Irrigation Project.

Mr. Chairman, the other bill before you, H.R. 3954, involves amendments to the Mni Wiconi authorization to include the Rosebud and Lower Brule Indian Reservations in the project. The Mni Wiconi Rural Water System is a reality because of the cooperation put forth by the tribal and local sponsors working in conjunction with the Bureau of Reclamation. This cooperation has led to a needs assessment of the area and a final engineering report which addresses those needs on a regional basis.

All of these entities involved are to be commended for their hard work and determination to build a rural water system.

The late Governor George S. Mickelson declared 1990 a year of reconciliation and encouraged all South Dakotans to work with one another regardless of race. We see the Mni Wiconi Project as a prime example of what can be accomplished when we all work together.

With me today is Francis Whitebird, the State Commissioner of Indian Affairs. Mr. Whitebird has played a vital role in reconciliation efforts and has submitted written testimony in support of amending Mni Wiconi to include the Rosebud and Brule reservations.

[EDITOR'S NOTE.—See Appendix for statement.]

Mr. PECK. Quality water is a scarce commodity in many areas of South Dakota. Water is scarce yet essential for survival in South Dakota. Water quality ensures the health of our families, it determines the economic success of our communities, and provides our agriculture industry the necessary means to produce a quality lifestyle. A safe, reliable source of water can lead to successes in all these things. Insufficient supply of good quality water has been a limiting factor for the Mni Wiconi service area.

The Department of Environment and Natural Resources has had a delegated drinking water program for over ten years. The department has the responsibility for monitoring and enforcing safe drinking water standards for public water supplies. Testing is conducted in State-certified labs and confirms that the water quality in the Mni Wiconi service area is poor. Many of the water sources exceed the safe drinking water standards.

The State of South Dakota believes that the expansion of the Mni Wiconi system to meet the identified needs of the area, including the Rosebud and Lower Brule Reservations, is the most economically feasible solution to the area's water quality problems.

In 1988, this committee, the South Dakota congressional delegation, the State, tribal and local sponsors met and negotiated an agreement for the Mni Wiconi Project. That agreement called for 35 percent cost sharing on the non-Indian components. We believe this level of non-Federal cost sharing is significant and reflects the State's and project's ability to pay.

We join the West River/Lyman-Jones and tribal sponsors in supporting the continuation of this cost-sharing agreement. Your support of the amendments to both the Belle Fourche Irrigation Project and the Mni Wiconi Rural Water System is greatly appreciated.

Thank you. I will answer any questions you may have.

[EDITOR'S NOTE.—See Appendix for additional material submitted for hearing record.]

[Prepared statement of Mr. Peck follows:]

TESTIMONY OF

REESE PECK

DEPUTY SECRETARY

SOUTH DAKOTA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

ON H.R. 3954

MNI WICONI ACT AMENDMENTS OF 1994

AND H.R. 4439

BELLE FOURCHIE IRRIGATION REHABILITATION AMENDMENTS OF 1994

SUBMITTED TO THE

OVERSIGHT AND INVESTIGATIONS SUBCOMMITTEE

NATURAL RESOURCES COMMITTEE

UNITED STATES HOUSE OF REPRESENTATIVES

MAY 24, 1994

Mr. Chairman and members of the committee, I am Reese Peck, the Deputy Secretary of the South Dakota Department of Environment and Natural Resources. I am appearing before you today on behalf of Governor Walter D. Miller and the State of South Dakota to express our support of the amendments to the Belle Fourche Irrigation Project and the Mni Wiconi Rural Water System. Governor Miller expresses his regret in not being able to attend today's hearings. He has written a letter of support to Chairman Miller and I will be submitting the letter as written testimony.

In 1987, the late Governor George S. Mickelson initiated a study to determine South Dakota's contemporary water development goals. As a result of that study, a list of priority water needs for the State of South Dakota was formulated. Included on the list of priorities were the Belle Fourche Irrigation Project and the Mni Wiconi Rural Water System. That list was adopted by South Dakota's Legislature.

South Dakota strongly supports water development. In 1993, the South Dakota Legislature established a dedicated funding source to provide funds to major water development projects as well as smaller community infrastructure projects. An annual amount of \$4.5 million has been dedicated to fund the development and construction of major projects such as the Belle Fourche Irrigation Project and the Mni Wiconi Rural Water System. This level of funding commitment has been instrumental in the success of moving several of our water development projects toward construction. The State of South Dakota remains committed to providing significant nonfederal cost share on both projects before this committee today through the use of our dedicated funding source.

The Belle Fourche Irrigation Project was authorized in 1904. Through the use of horses and shovels, construction was completed in 1914. In 1983, federal funds were authorized to modernize the project to address safety and efficiency concerns. Rehabilitation of the delivery system was intended to reduce operation and maintenance costs, conserve water, provide safety features, lessen the risk of system failure, reclaim agricultural lands affected

by seepage losses, and protect the economic welfare of the area. As the rehabilitation efforts progressed, it became evident that the authorized funding level would not be adequate to address all areas where rehabilitation is needed.

The Bureau of Reclamation worked with the local project sponsors and identified in a December 1992 report a priority level for project features and costs to accomplish each task. Reclamation Commissioner Dan Beard visited the Belle Fourche Irrigation Project in December of 1993. I commend Commissioner Beard and the Bureau of Reclamation for their efforts in working with the project sponsors and the State of South Dakota to assess the needs of this project and weigh the various alternatives. The outcome of these efforts is reflected in H.R. 4439.

There are several key needs that remain to be addressed as part of the rehabilitation effort. First and foremost are the safety factors associated with the project. It is imperative that the Whitewood Siphon be repaired immediately because of the risk it poses to the people of that area if it were to collapse. The next safety priority is the rehabilitation of the Orman Dam outlet structures. Additionally, there are numerous canal bridges which are unsafe and desperately need to be replaced. Another key factor this legislation addresses is water conservation by lining the South Canal and rehabilitation of Johnson Lateral. Water is scarce and improvements to conserve this vital asset are essential. South Dakota is committed to seeking \$4 million in cost share to complete the rehabilitation efforts of the Belle Fourche Irrigation Project.

The Belle Fourche area depends on agriculture to stimulate and sustain their economy and way of life. The cornerstone of this area's agriculture is the Belle Fourche Irrigation Project. To move into the 2nd century of the Belle Fourche Irrigation Project, this project must be efficient, dependable, and structurally sound, the facility must be safe and we believe that by raising the ceiling of the project cost, these needs will be met.

Mr. Chairman, the other bill before you, H.R. 3954 involves the Mni Wiconi Act Amendments of 1994 to include the Rosebud and Lower Brule Indian Reservations as part of the service area.

The Mni Wiconi Rural Water System is a reality because of the cooperation put forth by the tribal and local sponsors working in conjunction with their staff and engineers and the Bureau of Reclamation. This cooperation has led to a needs assessment of the area and a final engineering report which addresses those needs on a regional basis. All of these entities involved are to be commended for their hard work and determination to build a rural water system. The State of South Dakota has been making a concerted effort to reconcile its differences with the Indian Tribes. The late Governor George S. Mickelson declared 1990 "A Year of Reconciliation" and encouraged all South Dakotans to work with one another regardless of race. With me today is Francis Whitebird, the State's Commissioner of Indian Affairs. Mr. Whitebird has played a vital role in the reconciliation efforts and he has submitted written testimony in support of amending Mni Wiconi to include the Rosebud and Lower Brule Indian Reservations.

Quality water is a scarce commodity in many areas of South Dakota. It is scarce, yet it is essential for survival. Quality water ensures the health of our families, it determines the economic success of our communities and it provides our agricultural industry the necessary means to produce quality livestock which in turn provide Americans with food. A safe, reliable source of water can lead to the success of all of these things. An insufficient supply of good quality water has been a limiting factor for the Mni Wiconi service area.

The Department of Environment and Natural Resources has had a delegated drinking water program for over ten years. The Department has the responsibility for monitoring and enforcing Safe Drinking Water Standards for public water supplies. Testing is conducted in state certified labs and confirms that the water quality in the Mni Wiconi service area is

poor with many of the water sources exceeding Safe Drinking Water Standards. There are numerous violations of the secondary standards for sodium, sulfate, iron, fluoride, and total dissolved solids. Currently, at least two public water supply systems in the Mni Wiconi service area exceed the primary standard for radium. The Department believes that many of the ground water supplies in this area will not meet the anticipated EPA primary standards for inorganics and radon. The problems, including cost and technology to upgrade the individual treatment facilities of the Mni Wiconi members, threatens the viability of the area and the future of its residents.

The State of South Dakota believes that the expansion of the Mni Wiconi system to meet the identified needs of the area including the Rosebud and Lower Brule Indian Reservations is the most economically feasible solution. Yes, it involves a significant increase to the ceiling to fully address the water supply needs of this region. A region which will encompass approximately 14,000 square miles, an area about the size of the states of Massachusetts, Connecticut, and Rhode Island combined. With the Safe Drinking Water Act requirements, it will be far less expensive to address them now on a regional basis rather than building separate systems in the near future.

In 1988, this committee, the South Dakota congressional delegation, the State, tribal and local sponsors met and negotiated the Mni Wiconi cost sharing terms. In 1994, we believe the 35% cost sharing on the non-Indian components continues to provide a significant nonfederal contribution based on the State and project ability-to-pay. In 1992 dollars, the nonfederal cost share for the West-River/Lyman-Jones components is \$22.5 million and we will meet that commitment. We anticipate providing the nonfederal cost sharing through subsidized, low interest State loans. Terms of the loans include no interest during construction, repayment initiated at completion of the project, and an interest rate of 3% over 40 years. Even with these terms, the project's projected "no water" monthly minimum paid by rural users for debt service is the highest in South Dakota at over \$43, which is 45% greater than the next highest water supply project.

In South Dakota, the Rural Development Administration grant/loan determination analysis uses \$50 average monthly water bills as optimum. However, if a West-River/Lyman-Jones member uses 15,000 gallons, their monthly water bill will be \$81 and if they use 25,000 gallons, their monthly water bill will be \$106. We join the West-River/Lyman Jones and tribal sponsors in strongly supporting a continuation of the 35% nonfederal cost sharing on the non-Indian components of this system as any additional cost share makes the project unaffordable.

Your support of the amendments to both the Belle Fourche Irrigation Project and the Mni Wiconi Rural Water System is greatly appreciated.

Mr. JOHNSON. Thank you, Mr. Peck.

I appreciate the State Government's active support of both of these projects. It has been critical. This has involved not only cooperation among Indian and non-Indian communities as well as the Belle Fourche area, but active cooperation and participation and financial assistance from the State.

We have gone through cost-sharing negotiations in the past, and no doubt we have some further talks to do. But I very much appreciate the State's willingness to put money where its mouth is. It has not simply asked for the Federal Government to come in and take care of all of its problems, but has actively played a part in working on these projects and providing the financial resources for the projects.

I don't have any real questions of the State beyond that.

Mr. MILLER. I want to echo what you have just said, Tim. Obviously, these negotiations are the key here. I think that is very important. I think as Commissioner Beard has said, we worked them out in the past, and clearly the burden is on us to do that again. But I think to do so, recognizing that there has got to be some distinctions when we are in an area, again, as the Commissioner pointed out, of long distances and low density. That that has got to be recognized. It is far different than in my own area, where I am the beneficiary of a Federal M&I project. It is in a very high-density area. We can spread the building over an exceptional number of people. And you are just not going to have that advantage in this process.

We hope to be able to accommodate that. But we are going to need some help from the State in that process.

Mr. JOHNSON. Mr. Chairman, the only thing I would add to that is, we will be working in good faith with the Bureau to finalize language, and with you and your staff, Mr. Chairman. We are confronting, however, some very tight time constraints. Obviously, we have limited numbers of days in this legislative session to mark up the bill, to get it to the Floor and to the Senate, and to the White House. At the same time, we recognize that these two bills need to move this year. One, we are ready now to begin major construction on Mni Wiconi, on the core pipeline, but we can't do that unless we have resolved this issue about the ultimate service area to be covered.

And second, at Belle Fourche, of course, that personnel will leave the area and will disband and it would become much more expensive in the long run unless we take care of it right away this year.

So we have some discussions that we will be participating in, but they need to be brought to a closure at a fairly prompt point so that we can move on this.

Mr. MILLER. Thank you. Thank you very much for your testimony, both of you. We look forward to working with you.

The next panel on H.R. 3954 will be made up of Mr. Kirk Cordes, who is the vice chairman, board of directors, the West River Rural Water System, and he will be accompanied by Mr. Mike Kurle, who is the manager of the West River/Lyman-Jones Rural Water System, and Mr. Mel Lone Hill, the vice president of Oglala Sioux Tribe, accompanied by Mr. Mario Gonzalez, consultant to the tribe

on this project, and Mr. Paul Little, the director of the Oglala Sioux Rural Water Supply System.

Mr. William Kindle, who is the president of the Rosebud Sioux Tribe, accompanied by Fremont Fallis, council member of the Rosebud Sioux Tribe.

You can identify yourselves correctly when you get up here.

Finally, Mr. Boyd Gourneau, who is the tribal council member from the Lower Brule Sioux Tribe.

Come on up here and testify. Welcome to the committee. Your statements and supporting documents will be put into the record in their entirety. You may certainly feel free to proceed in the manner in which you are most comfortable.

Let me just say I am going to have to leave here in a couple of minutes for a meeting over in the Majority Leader's office. But I will be right back as soon as that meeting is concluded. In the meantime, Congressman Johnson will run the hearing.

Mr. Cordes, we will begin with you.

PANEL CONSISTING OF KIRK CORDES, VICE CHAIRMAN, BOARD OF DIRECTORS, WEST RIVER RURAL WATER SYSTEM; MEL LONE HILL, VICE PRESIDENT, OGLALA SIOUX TRIBE, ACCOMPANIED BY MARIO GONZALEZ, ATTORNEY AT LAW, BLACK HAWK, SD, AND PAUL LITTLE, DIRECTOR, OGLALA SIOUX RURAL WATER SUPPLY SYSTEM; WILLIAM KINDLE, PRESIDENT, ROSEBUD SIOUX TRIBE, ACCOMPANIED BY FREMONT FALLIS; AND BOYD GOURNEAU, COUNSEL MEMBER, LOWER BRULE SIOUX TRIBE; AND MIKE KURLE, MANAGER, WEST RIVER/LYMAN-JONES RURAL WATER SYSTEMS

STATEMENT OF KIRK CORDES

Mr. CORDES. Mr. Chairman, members of the committee, my name is Kirk Cordes. I am a director on the West River Rural Water System and live on a ranch north of Wall, South Dakota. I am testifying in support of H.R. 3954.

There is precious little water worth drinking in western South Dakota. I can say that from personal experience because I for the past 20 years have hauled drinking water that supplies my ranch. I haul it from the city of Wall, which is a distance of 26 miles.

We are here today to talk to you about the success we have had and the need to share our project with others. During the planning process, it became apparent there were unmet needs within our original project areas, and additional needs to be addressed in the Rosebud and Lower Brule Reservations.

The West River and Lyman-Jones boards of directors have unanimously passed resolutions to support expansion of service to the Rosebud and Lower Brule Tribes.

This project is unique in the fact that we have demonstrated that Indians and non-Indians can work together for a common goal. We realize that we need each other on this project and have developed a good working relationship.

We also realize that some may criticize this project because of the cost. Our response is that they evaluate this project on the basis of our willingness and ability to pay rates in excess of those on other State and Federal projects.

In fact, we are willing and we believe we are able to meet the repayment cost as currently authorized. However, any increase in the non-Federal cost share or reallocation of cost will make it impossible for most non-Indian users to participate in this project.

Additionally, any increased assignment of cost will represent a taking away of the benefits provided in the authorization for the original users.

I further note to you that the West River and Lyman-Jones systems must also make an attempt to serve low- and moderate-income people in their service areas. The original founders of this project worked over 25 years to make this project a reality. There were some who thought it was impossible. There were some who doubted their ability and sincerity. Congress, however, provided credibility to their dreams with the passage of Public Law 100-516 in 1988, and along with authorization, many new users were identified.

The net result was a significant increase in the users in the West River and Lyman-Jones service areas. The users for the most part improved the feasibility of the project because some of them were located along previously planned pipeline routes. However, this did increase the cost of the West River/Lyman-Jones system and has resulted in an increase in their distribution system cost.

These additional costs have generally been offset by economies-of-scale improvements on the main distribution system, and the addition of service to the Rosebud and Lower Brule Reservations.

Your timely consideration of this bill is of vital importance to us. We have made significant construction progress to date. That progress has been in areas where it was possible to use water from interim water sources. However, it is now time to start construction of the main delivery system.

We need an answer from Congress on whether these facilities should be sized for only those systems authorized in Public Law 100-516 or whether those pipelines should have the capacity to also serve Rosebud and Lower Brule. We want this project to include them, and for that reason I sincerely request your favorable consideration of H.R. 3954.

Thank you for this opportunity to testify.

[Prepared statement of Mr. Cordes follows:]

TESTIMONY BY KIRK CORDES
WEST RIVER & LYMAN-JONES
RURAL WATER SYSTEMS

HR 3954
MNI WICONI ACT AMENDMENTS OF
1994

HOUSE NATURAL RESOURCES
COMMITTEE

May 24, 1994

HR 3954
WEST RIVER AND LYMAN-JONES
RURAL WATER SYSTEMS
TESTIMONY BY KIRK CORDES
MAY 24, 1994

Chairman and Members of the Committee:

My name is Kirk Cordes. I am a director on the West River Rural Water System and live on a ranch north of Wall, South Dakota. I am testifying in support of HR 3954.

If you have driven Interstate 90 across western South Dakota from the Missouri River to the Black Hills, you will see advertising that says "Free Ice Water at Wall Drug". There aren't very many places in this country that advertise water, but the facts are that there is precious little water worth drinking in western South Dakota. I can say that from personal experience because for the last 20 years, I've hauled the drinking water that's supplies my ranch. I haul it from the City of Wall, a distance of 26 miles.

We began to fulfill our dreams in 1988 with the passage of the Mni Wiconi Act. Since that time, we have completed the necessary planning and environmental assessments, and have made significant construction progress.

I have personally benefitted from that construction progress. In fact, the pipeline is now constructed into my ranch and sometime during the month of June, I will begin receiving pipeline water from an interim water source at the City of Wall.

We're here to talk to you today about the success we have had and the need to share our project with others. During the planning process, it became evident that there were unmet needs within our original project areas and additional needs to be addressed on the Rosebud and Lower Brule Reservations. HR 3954 takes the Mni Wiconi Authorization to its logical conclusion. The West River and Lyman-Jones Boards of Directors have unanimously passed resolutions to support the addition of service to the Rosebud and Lower Brule Sioux Tribes.

In our success to date, we have demonstrated that the Indian and non-Indian people can work together for their common good and for regional economic development. We realize that we need each other on this project, and have developed a good working relationship.

We realize that some may criticize this project because of its cost. Our response is that they evaluate this project on the basis of our willingness and ability to pay water rates in excess of those on other state and federal projects, and on the quality of life issues that we are presenting

to you. The Bureau of Reclamation, in April of 1983¹, estimated that non-Indian users of the Mni Wiconi project had a net ability to pay 85¢ a 1,000 gallons. We are submitting evidence to show that as presently authorized, with a 35% non-federal cost share, cost to the users will significantly exceed the Bureau's estimate of our ability to pay. My objective in this testimony is to state to you that we are willing, and we believe that we are able, to meet the repayment costs as currently authorized. However, any increase in the non-federal cost share or reallocation of costs will make it impossible for most non-Indian users to participate in this project. Additionally, any increased assignment of costs will represent a taking away of the benefits provided in the authorization for the original users. I further note to you that the West River and Lyman-Jones Systems must also make an attempt to serve low and moderate income people in their service areas.

The original founders of this project worked over 25 years to make this project a reality. There were many people who thought it was impossible. There were some who doubted both their ability and their sincerity. Congress, however, provided credibility to their dreams with the passage of PL 100-566 in 1988, and along with authorization, new people believed in the project. The net result was a significant increase in users in the West River and Lyman Jones service areas. These users, for the most part, improved the feasibility of the project because some of them were located along previously planned pipeline routes. However, this did increase the cost of the West River/Lyman Jones System, and has resulted in an increase in their distribution system costs. Those additional costs have generally been offset by economies of scale improvements on the main distribution system and the addition of service to the Rosebud and Lower Brule Reservations.

In my opening remarks, I mentioned Interstate 90. This highway is the primary avenue by which many Midwesterners travel to the Black Hills and the Rocky Mountains. They have a sincere interest in the Prairie Plains, Badlands and the Black Hills. Approval of the Environmental Enhancement Plan will assist us in preserving our natural environment, not only for our sake, but for the sake of the national public.

I sincerely request your favorable consideration of HR 3954.

¹Estimated Ability To Pay of Non-Indian Users For The Mni Wiconi Project, Bureau of Reclamation, April, 1983.

Mr. JOHNSON [presiding]. Mr. Lone Hill.

STATEMENT OF MEL LONE HILL

Mr. LONE HILL. Mr. Chairman and members of the committee, thank you for the hearing on Public Law 100-516 that would expand the Mni Wiconi Project.

My name is Mel Lone Hill. I am the vice president of the Oglala Sioux Tribe. I bring you greetings and best wishes from the people in the Oglala Sioux Tribe that reside on the Pine Ridge Reservation.

Each of the witnesses that will present testimony today represents one of the five parts of the Mni Wiconi Project. Those parts include West River, Lyman-Jones, Rosebud Sioux, and the Lower Brule Sioux Water Systems. Each of us shares the common problem; namely, that our members need safe and adequate drinking water supplies. We also need water for the development and growth of our economies.

Congress had considerable foresight in the enactment of Public Law 100-516, the original legislation that created the Mni Wiconi Project, and in the exercise of good wisdom, Congress combined the need to meet its trust responsibilities to the Indian people with the pragmatic solution for other residents of western South Dakota that suffer from a lack of good quality water.

I would like to express my appreciation to representatives of the other project sponsors that will appear before you today.

Since 1988, the road to Washington, DC, in preparation for this moment, has been uphill. There are times that my people thought we could not reach a consensus with members of the Lyman-Jones and West River systems. I would ask the committee to read our written statement with regard to the difficulties we encountered and the successes that have resulted from our local resolution of those difficulties.

The collective efforts of the witnesses here today and the people that represent them have resulted in a new level of understanding between the Sioux and non-Sioux people in the Mni Wiconi Project area.

This understanding can be lost if we are not diligent. And much more remains to be done. However, for perhaps the first time since the 1868 treaty which established the Great Sioux Reservation west of the east bank of the Missouri River, there are good signs that our people can come together to improve upon our collective dignity, raise the spirit of hope and progress toward a common future.

I know of no other event in the history of South Dakota that has gone so far with so many in this direction. We have developed a sensible project that will serve a population of 52,000 in the southwestern quadrant of South Dakota. Without this project, that population cannot participate in the standard of living enjoyed by the rest of the Nation.

But more importantly, without this project the health of this segment of our national population will continue to rely upon medical care to treat the high incidence of illness that stems from poverty and a lack of safe and adequate drinking water. Part of the disease

that afflicts our people can be eliminated with the presence of good water.

There are two final points I would like to make with regard to the Administration's position on legislation.

I am informed that the Clinton Administration is fully behind the Indian parts of the legislation but does not fully support the cost-sharing provisions for the West River and Lyman-Jones.

Let me make it perfectly clear that the Oglala Sioux Tribe walks side by side with West River and Lyman-Jones on the cost-sharing matter. We believe the Administration is wrong in requiring more financing from the West River and Lyman-Jones Projects as is provided in H.R. 3954.

The second point is that environmental enhancement provisions of the act are of considerable importance to the Oglala Sioux Tribe. Our enthusiasm for the enhancement program runs high as we look forward to the restoration of parts of our grasslands, riparian areas and prairie woodlands for the benefit of a diminished wildlife resource.

Mr. Chairman, I commend the committee for its foresight in 1988, and I petition you and the other members of the committee to enact this expanded project. Thank you for taking time to hear our testimony today.

[Prepared statement of Mr. Lone Hill follows:]

**STATEMENT OF MEL LONE HILL, VICE PRESIDENT
OGLALA SIOUX TRIBE**

**RESPECTING HR 3954,
AN ACT TO EXPAND THE MNI WICONI
RURAL WATER SUPPLY PROJECT**

Mr. Chairman and members of the Committee, for the record, my name is Mel Lone Hill. I am the Vice President of the Oglala Sioux Tribe of the Pine Ridge Indian Reservation. It is a sincere honor to represent the Oglala Sioux Tribe by filing this statement in support of HR 3954, an Act to Expand the Mni Wiconi Rural Water Supply Project.

Before proceeding with my formal statement, I would like to express my appreciation to Congressman Tim Johnson for his consistent and untiring efforts on the Mni Wiconi Project. He has been a strong proponent and advocate of the Oglala Sioux Tribe since the formulation of the original legislation in 1988. The Oglala Sioux Tribe expresses its appreciation for his sponsorship of HR 3954.

I would also like to thank you, Mr. Chairman, and Members of the Committee and staff for scheduling this hearing so soon after introduction of HR 3954. We recognize and appreciate your efforts as essential to passage of the expanded Act in this session of Congress.

OGLALA SIOUX TRIBE SUPPORTS HR 3954

Mr. Chairman, the Oglala Sioux Tribe is in full support of HR 3954. It is my understanding that Congressman Johnson will remove the section of the Bill addressing amendments to the electrical provisions of Public Law 100-516 to make it compatible with S 2066. While removal of this section of the amendments is not the preference of the Oglala Sioux Tribe, it is essential to early enactment of the legislation and other project sponsors cannot receive water without these amendments.

HISTORICAL BACKGROUND

The Oglala Sioux Tribe whole-heartedly supports the addition of the Rosebud Sioux and Lower Brule Sioux Tribes in the Mni Wiconi Project. The Great Sioux Reservation was created by Treaty 1868 and occupied all of South Dakota west of the easterly high bank of the Missouri River. In 1889, as the Dakota territory was moving toward statehood, the Great Sioux Reservation was diminished by an Act of Congress. The Oglala Sioux Tribe has always questioned the validity of the 1889 Act because of the failure of the United States to obtain the three fourths male signatures required by Section 28 of the 1889 Act and Article 12 of the 1868 Treaty. The Reservation boundaries as they currently exist at Pine Ridge, Rosebud and Lower Brule were established by the 1889 Act. Each of the Tribes that belong to the Great Sioux Nation have a strong spiritual and emotional attachment to the territory and resources of the Great Sioux Nation. Therefore, the re-connection with the Missouri River by the Oglala Sioux Tribe, restores a part of our heritage consistent with our treaties and agreements with the United States.

NEED FOR THE PROJECT ON PINE RIDGE

Areas Where Water is Not Available: Sufficient emphasis cannot be placed on the need for this project on the Pine Ridge Indian Reservation. Our Tribal membership, in the rural areas especially, is without adequate supplies of drinking water, and the meager supplies that are available are frequently unsafe. In the western and northern districts of Pine Ridge, natural supplies of water do not exist. Wells that are drilled simply do not encounter a supply of water or the water is in short supply and undrinkable. In these western and northern districts, the surface waters are not dependable, and the quality is unsuitable for drinking. The flows of our streams, such as the Cheyenne River and White River in this portion of the Reservation, have diminished water quality due to the development of thousands of stock ponds that evaporate the good water and leave salts behind. Water quality is also diminished by upstream irrigation projects, which transpire pure water leaving behind chemicals that are of increased concentration and detrimental to health.

Areas Where Water is Available: I have just described conditions in the Bad Lands portion of Pine Ridge. This area occupies the western third and northern quarter of my Reservation. The balance of the Pine Ridge Indian Reservation is underlain by the High Plains Aquifer, which contains the Arikaree and Ogallala formations. These are water bearing formations that generally store water of suitable quality for drinking and other purposes. However, samples taken from wells drilled into these formations show local concentrations of nitrates that exceed safe drinking water standards. As you know, nitrates in sufficient concentrations can cause illness and, in extreme cases, death in infants. The nitrates rob newborns of oxygen in their bloodstream and affect respiration.

There is also evidence that half of our rural wells penetrating the Ogallala and Arikaree formations in the rural areas are subject to microbiological contamination (bacteria, virus or protozoa). There is speculation that local microbiological contamination stems from an extension of the zone of influence around the well to wastes discharged from septic tanks and areas used heavily by livestock. Thus, there are large numbers of wells serving individual residences that draw water from too near the surface and are subject to contamination. We have relatively high natural levels of arsenic and radionuclides throughout these formations, but the concentrations are lower than maximum contaminate levels that are acceptable for safe drinking water.

In the project we are now building, we will construct wells that will be protected at the wellhead and by watershed management practices. A large number of homes will be served from a single well or well field. In this manner we can monitor quality of water received by large numbers of the population and protect the supply from external contaminants, such as nitrates and microbes.

This brings me to the greatest problem of members of my Tribe who reside in rural households of the Pine Ridge Indian Reservation and that overly the Ogallala and Arikaree formations. Poverty is deep within the Reservation. The Census Bureau has documented over the past two decades, at least, that per capita income levels on the Pine Ridge Indian Reservation

are the lowest in the Nation. Under those circumstances, the maintenance of a well by a private homeowner is virtually impossible. If a well was drilled, failure of the casing, the pump or the service line to the house becomes a tragedy. The individual has no source of income to provide repair. Our Needs Assessment demonstrated that water is hauled to 25% of the rural households overlying areas with adequate groundwater. This is despite the fact that 90% of the homeowners reported the presence of a well. My point is that throughout the Reservation, whether groundwater supplies are available, or not, there is an extraordinary reliance on water hauled to the home for drinking, cooking and general sanitation. Unless one visits and observes the conditions on the Pine Ridge Indian Reservation, one cannot imagine the conditions that exist. At the close of the 20th century, it is generally taken for granted that everyone in this modern, industrialized and respected Nation has the basic necessities of life. This presumption does not hold on the Pine Ridge Indian Reservation.

Absence of Safe and Adequate Drinking Water Impacts Health: For a moment, I will address the health impacts of these conditions. Impetigo, gastroenteritis, shigellosis, scabies and hepatitis-A are water-borne diseases. Incidence of these diseases on the Pine Ridge Indian Reservation is high. Dr. Thomas Welty, Epidemiologist for the Indian Health Service, has written on the subject and compared the rates of incidence of these diseases on Pine Ridge with national rates. I encourage the Committee to correspond with Dr. Welty to gain further insights.

The amendments proposed for the Mni Wiconi Project will assist greatly in the reduction or elimination of the diseases that afflict so many on the Reservation. The causal relationship between these diseases and the conditions on Pine Ridge is clear. Contributing to disease is the presence of standing water contained in buckets as the only source of water in many homes. Several five gallon buckets filled by trucks operated by the Tribe are the only source of water for many. If water is to be preserved for several days until our trucks can make their rounds, there is insufficient water to bath children, and exposure to contamination is far greater than in the normal populace. At a time when the nation is considering health care reform, I respectfully submit that the costs of health care on Pine Ridge can be reduced by bringing water to my people and thereby reducing the need for treatment that should not be so prevalent.

Employment Benefits of Project: Jobs are few and far between on the Pine Ridge Indian Reservation. This project brings great expectations from the Tribal membership. We currently employ 35 Tribal members in the planning, design and construction administration of the project. Another 95 construction jobs will be created annually over the next 10 years. In sum, we will have annual employment for the 10 year construction period averaging 130. This represents 30% of the total employment now available on the Pine Ridge Indian Reservation. This is significant. After construction of the project, we will employ 50 individuals in the operation and maintenance of the Oglala Sioux Rural Water Supply System and an additional 14 in the environmental enhancement program. The Tribe is strongly committed to the environmental program.

I know that Rosebud, Lower Brule and West River/Lyman-Jones are also in need of employment, and that the water project will have a positive impact throughout the area. In fact, it is estimated that over 230 total construction jobs will be created for the 10 year period of building and that over 110 will be employed after the project is completed.

PROPOSED AMENDMENTS REPRESENT A RE-FORMULATED PROJECT

The proposed amendments to the Mni Wiconi Project Act are based on re-planning of the project by the Tribe. Re-planning was critical to acceptance of the project by the membership of the Oglala Sioux Tribe. I am sure that the Chairman and members of the committee are aware that in November 1989, the Tribal membership voted in a referendum to approve or not approve the Mni Wiconi Project as formulated at that time. The vote was 1,017 against and 873 for the project. The project at that time had been formulated without substantial input from the Oglala Sioux Tribe. The project would have provided approximately \$45 million for building a pipeline between the Pine Ridge Indian Reservation and approximately \$20 million for building systems needed within the Reservation. The level of funding within the Reservation would address no more than one third of our population and our needs. The per capita water requirements proposed within the Reservation were not acceptable to the Tribal membership. Additionally, the Tribe and its membership were shocked and dismayed at the outcome of the Wind River water rights case in Wyoming that had been initiated as a McCarran Amendment proceeding against the Arapahoe and Shoshone. There was concern that this project would inspire a McCarran Amendment case against the Tribe. Each of these factors weighed heavily on the Tribal membership, and they were unwilling to approve the project as it was formulated.

I was involved in Tribal government at that time. My predecessors in my current position and I had a responsibility to re-plan the Oglala Sioux Rural Water Supply System and properly address the concerns of the Tribal membership. We took the following steps:

- Revised the per capita water requirements to more properly reflect the future demand.
- Projected the future population through 2010 in order to account for growth within the Reservation.
- Planned a system within the Reservation to meet the needs of the full membership and other residents.
- Undertook a public involvement program coordinated by Oglala staff that was highly successful.
- Reached a critical agreement with West River and Lyman-Jones with regard to the planning, design, construction, operation and maintenance of the core facilities of Oglala Sioux Rural Water Supply System, including the intake, treatment plant, core pipelines and core pumping stations.

- Conducted seminars and debates on the potential for a McCarran Amendment proceeding stemming from project implementation.
- Prepared a *Final Engineering Report* for the entire Mni Wiconi Project that reformulated the project and added the Rosebud and Lower Brule Sioux Indian Reservations.
- Prepared an Environmental Assessment that resulted in a Finding of No Significant Impact (FONSI) by the Regional Director of the Bureau of Reclamation (FONSI No. MS-150-93-02).
- Prepared a Water Conservation Plan for OSRWSS.
- Instituted a program for hauling water with emphasis on households with elderly or young children where the head of household is without transportation.
- Implemented construction of an emergency water system in the White Clay/Wakpamni Districts following Congressional authorization in Public Law 102-575.

Each of the steps listed above involved a major effort on the part of the Oglala Sioux Tribe. While we receive some oversight by the Bureau of Reclamation and employ consultants, the essential work to gain public acceptance of the project on Pine Ridge was due to the efforts of the Tribe, its governing body and the project office established to implement the project.

The steps listed above may appear innocuous to those examining the project history. However, let me assure you that some of those steps involved considerable debate and intensity. Members of Congress may have difficulty understanding how the project could hinge upon some of the items listed above. In gaining insight it is important to recognize the level of poverty on Pine Ridge and its duration. The taking of the Black Hills in 1877, the Wounded Knee Massacre, the diminishment of the Great Sioux Reservation, federal court decisions declaring that Bennett County is no longer part of the Reservation and attacks on our *Winters* doctrine water rights from the 1920's until present are factors that have eroded our faith in the commitment of the United States to the Oglala Sioux people. We have a standard of living that is the worst in this country and undoubtedly lags behind many third world countries. Because the level of poverty is deep and the Tribal membership has had no reason to expect improvement in those conditions, there can be no further degradation they can suffer.

Let me explain further. One of the critical issues in the project development was assurance that the planning, design, construction, operation and maintenance of the core system of the Oglala Sioux Rural Water Supply System would be conducted by the Oglala Sioux Tribe. The governing body and the membership read and interpreted Public Law 100-516 as a clear statement that the Tribe would perform those activities. There was considerable debate of this issue with the Boards of West River and Lyman-Jones. When the governing body voted to

...stay with the act as written..., the project was at one of its most critical turning points. It was ultimately agreed between the Tribe and West River/Lyman-Jones that cooperative agreements would be implemented whereby the Lyman-Jones and West River project participants would receive the water they required of the quality necessary to meet safe drinking water standards at points of interconnection with the Oglala Sioux Rural Water Supply System. The parties to this cooperative agreement are the Secretary of the Interior, acting through the Bureau of Reclamation, and the West River and Lyman-Jones rural water systems. A second set of cooperative agreements was developed providing that the Oglala Sioux Tribe would plan, design, construct, operate and maintain the Oglala Sioux Rural Water Supply System, including the core facilities. It was agreed that these cooperative agreements would be executed between the Secretary, acting through the Bureau of Reclamation, and the Oglala Sioux Tribe, acting as the non-federal entity for the Oglala Sioux Rural Water Supply System.

This agreement had considerable effect. First, the governing body and the membership of the Oglala Sioux Tribe observed that the United States, West River and Lyman-Jones were genuinely attempting to act in good faith. From the perspective of those outside the Tribe, it was recognized that the Oglalas possessed considerable resolve (a) to bring safe and adequate drinking water to its membership and (b) to confirm in the Tribe the authority to manage and employ its members in OSRWSS. Second, the Oglalas recognized and concurred in the genuine need for water in the West River and Lyman-Jones areas and the authority and commitment of those Boards to make the project work for their membership. The parties resolved the issues fact-to-face and developed a lasting foundation for mutual respect.

It has been said that the most important policy of the late Governor of South Dakota, the Honorable George S. Mickelson, was *Reconciliation* between the Indians and non-Indians of South Dakota. The respect that the Oglalas, West River and Lyman-Jones now possess for one another was not driven by the State's policy, but our process evidences the values that the great Governor Mickelson contemplated in *Reconciliation*. The Oglalas gained faith in the project for the reason that there was adherence to our interpretation of the provisions of Public Law 100-516 despite pressures to compromise.

I would be happy to expand further on the importance of any of the other steps listed above if the members of the Committee would like to inquire and gain further insight. For the sake of brevity, I will proceed toward conclusion of this statement.

SUPPORT FOR WEST RIVER AND LYMAN-JONES COST SHARE PROVISIONS

The Oglala Sioux Tribe is informed that the Administration is fully behind the Oglala, Rosebud and Lower Brule Sioux components of this project. We are also informed that the Administration does not support the cost sharing provisions for West River and Lyman-Jones. I would ask that you relate to my earlier discussion of the agreements that the Oglalas, Lyman-Jones and West River reached with regard to the planning, design, construction, operation and maintenance of the Oglala Sioux Rural Water Supply System. The Oglalas are firm in our

commitment to ensuring deliveries of safe and adequate drinking water to the interconnections with West River and Lyman-Jones. We also recognize that the cost share arrangements developed in the original legislation and advanced in the amendments are essential to West River and Lyman-Jones. We fully support the cost share arrangements in the existing and proposed legislation and stand firmly behind West River and Lyman-Jones. A greater cost burden cannot be tolerated by the membership of these water user groups.

My petition, Mr. Chairman and other members of the committee, is that you consider the depth of commitment that the Oglalas, West River and Lyman-Jones water users have to one another in this project and find in favor of West River and Lyman-Jones on the cost share issue. Stress upon the parties to preserve our mutual trust and respect will be increased if the cost share provisions are modified. I also respectfully petition the Administration to withdraw its objections to these cost sharing provisions. The Administration can better serve West River and Lyman-Jones, and indeed the Nation if it would recognize that in semi-arid areas of the western United States, in particular, safe drinking water supplies are not affordable by the population that resides there. Substantive federal assistance to West River, Lyman-Jones and others, is not only a necessity but a hallmark of sound federal policy.

SUPPORT FOR ROSEBUD AND LOWER BRULE SIOUX TRIBES

The Rosebud and Lower Brule Sioux tribes have participated with the original parties to the legislation as equals in the development of the *Final Engineering Report*. The conditions I described on Pine Ridge are also reflected on the Rosebud and Lower Brule Indian Reservations to more or lesser degree depending on the area. We not only supported our brothers in the reformulation of the project in the *Final Engineering Report*, we encouraged their participation. Rosebud expressed its interest in becoming a project participant sufficiently early in the process to receive special recognition by Congress for the conduct of a feasibility study in Public Law 102-575. Lower Brule became a project participant when Public Law 102-575 was too far advanced to receive Congressional recognition.

I believe I speak for all of the Sioux Tribes involved in this project in expressing our appreciation for the recognition by Congress in Public Law 100-516 as amended that:

...the United States has a trust responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs...

So frequently the concept of trust responsibilities is meaningful only to the Tribes and seems to be without substance in the actions of agencies and officials of the United States. We commend Congress for explicitly recognizing trust responsibility and acting to authorize the Mni Wiconi Rural Water Project expansion which will greatly benefit our collective memberships.

CLOSING

Mr. Chairman, before I close my remarks, I bring attention to the Executive Summary of the *Final Engineering Report*. As stated earlier, the Oglala Sioux Tribe was the responsible party for preparing the *Final Engineering Report* and received considerable input of great quality from the West River, Lyman-Jones, Rosebud and Lower Brule organizations. The Executive Summary is attached to my statement for review and will be covered more fully in the statement by Mr. Little, Director of the Oglala Sioux Rural Water Supply System.

Mr. Chairman and members of the committee, I express my personal thanks and the genuine appreciation of the membership of the Oglala Sioux Tribe for your exemplary efforts in bringing this project to the Pine Ridge Indian Reservation and raising our standard of living with respect to drinking water to 20th century levels.

oglaa0130001-0010.pdf

EXECUTIVE SUMMARY

ES-1. General

The Mni Wiconi Rural Water Supply Project was authorized by Public Law 100-516 (102 Stat. 2566) on October 24, 1988. Congress found that "...the United States has a trust responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply and public health needs of the Pine Ridge Indian Reservation...". It is implied that a similar finding will be made with amendment of Public Law 100-516 to include Rosebud and Lower Brule. Congress also recognized the serious problems of water quantity and quality in the Lyman-Jones and West River areas and declared the purposes of the legislation as follows:

"(1) ensure a safe and adequate municipal, rural, and industrial water supply for the residents of the Pine Ridge Indian Reservation in South Dakota;

(2) assist the citizens of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota, to develop safe and adequate municipal, rural, and industrial water supplies;

(3) promote the implementation of water conservation programs on the Pine Ridge Indian Reservation and in Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota;

(4) provide certain benefits to fish, wildlife and the natural environment of South Dakota, including the Pine Ridge Indian Reservation; and

(5) repeal the authorization of appropriations for the Pollock-Herreid Unit of the Pick-Sloan Missouri Basin Program." (102 Stat. 2566).¹

Three proposed service areas are included in the Mni Wiconi Rural Water Supply Project as authorized by Congress in Public Law 100-516. Those service areas are the Pine Ridge Indian Reservation (Oglala Sioux Tribe) and Lyman-Jones and West River rural water systems (Figure ES-1). Public Law 100-516 authorized \$87.5 million for construction of a system to supply water to the three service areas.

¹ Section 7 of Public Law 100-516 prohibits the use of planning or construction funds for irrigation.

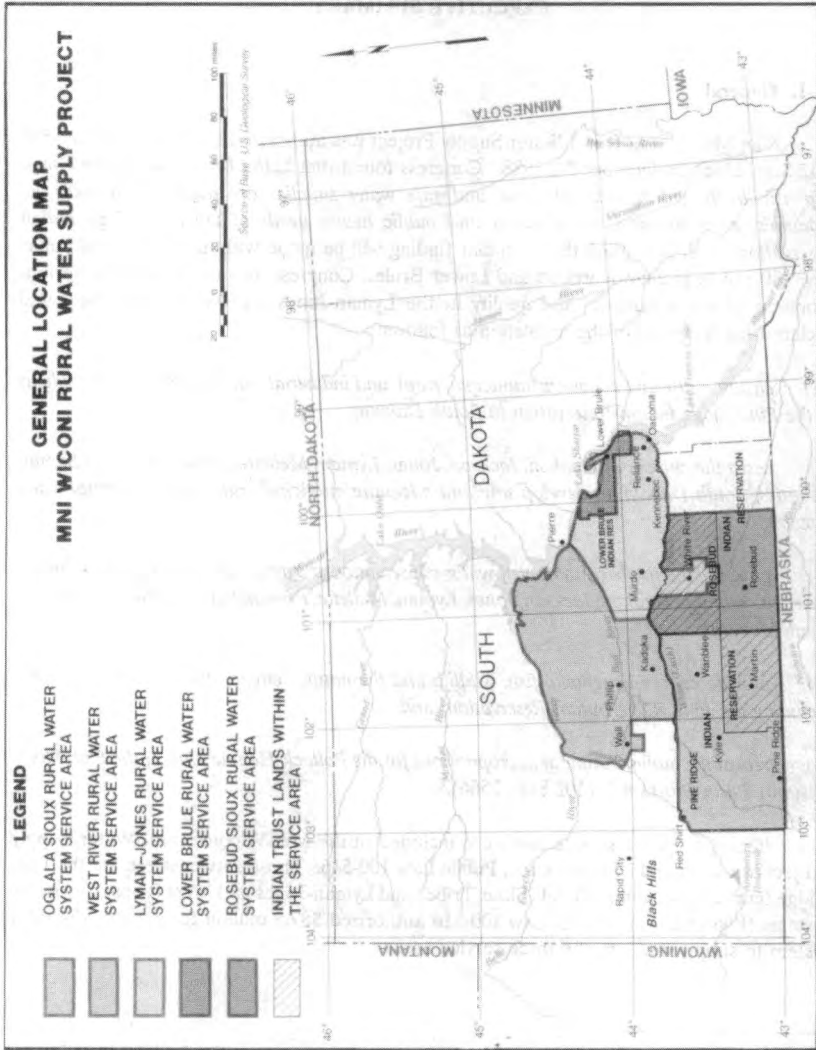


FIGURE ES-1

Public Law 102-575 authorized the preparation of a feasibility study to include the Rosebud Indian Reservation in the project. The Lower Brule Sioux Tribe passed a resolution to become part of the project. Each of the original parties to the legislation (Pine Ridge, Lyman-Jones and West River) supports addition of the Rosebud and Lower Brule Tribes² to the Mni Wiconi Rural Water Supply Project. Each of the parties have agreed to support amendment of Public Law 100-516 for that purpose.

Public Law 100-516 provides that the construction, operation, and maintenance costs for the Indian portion of the project, which includes the Oglala core system (the supply system between the Missouri River and the Pine Ridge Indian Reservation), and the Pine Ridge distribution system, are a Federal responsibility and will be a 100% grant. The non-Indian systems of Lyman-Jones and West River are responsible for 35 percent of the construction costs of their systems, and the remaining portion is a 65% Federal grant. They are also responsible for 100% of their operation, maintenance, and replacement costs beyond the point of interconnection. All service areas interconnect with the core system of the Oglala Sioux Rural Water Supply System.

ES-2. Background

A source of good quality municipal, rural, and industrial (MR&I) water in sufficient quantity has been a problem in south-central South Dakota. Counties and Indian tribes in the area have long sought to supplement or replace existing water systems. Initially, rural water associations and Indian tribes independently developed MR&I plans. The Oglala Sioux Tribe has an extended history of seeking a reliable, potable water supply to the Pine Ridge Reservation. In 1966, the Lyman-Jones Development Association was established to bring water to Lyman, Jones, and parts of Mellette and Stanley counties. West River Rural Water Systems, Inc. was organized in 1981 to develop a system to serve Haakon, Jackson, and parts of Stanley and Pennington counties.

As the critical needs for safe and adequate MR&I water supply became focused, the Oglala Sioux Tribe and the associations combined to propose a project to serve all three areas, and the project was authorized in 1988. The project study was expanded to provide service to the Rosebud and Lower Brule Reservations due to similar MR&I needs on those Reservations. The Rosebud and Lower Brule Reservations can be connected to the core system between the Oahe intake and the Pine Ridge Reservation. Consideration to include the Rosebud and Lower Brule Reservations is consistent with sound planning for regional

² The Lower Brule Indian Reservation is within the authorized service area, but a rural water project throughout the Reservation had not been provided in earlier planning. Lower Brule proposes a service area separate from Lyman-Jones that will include all of the Reservation.

water supply systems and with the purpose of the Act to fulfill the trust responsibility of the United States to the tribes. Thus, five service areas could be supplied with water from the Mni Wiconi Project: the Pine Ridge Reservation, West River Service Area, Lyman-Jones Service Area, the Rosebud Reservation, and the Lower Brule Reservation (Figure ES-1). Although the project sponsors are organizationally separate, components of the proposed MR&I system would be interconnected with the core of the Oglala Sioux Rural Water Supply System to serve users of the 12,500 square-mile region in South Dakota.

ES-3. Existing MR&I Systems

Salient features of existing MR&I systems in the Mni Wiconi area are listed in the Table ES-1 below. Groundwater wells supply most of the water.

TABLE ES-1
EXISTING MUNICIPAL SYSTEMS AND POPULATION SERVED

Entity	Population Served	Existing Systems
Pine Ridge	6,278	15 municipal water (13 school systems)
West River	3,042	6 municipal systems
Lyman Jones	2,647	7 municipal systems
Rosebud	6,201	18 municipal systems
Lower Brule	830	1 municipal system

The Pine Ridge municipal systems serve an estimated 1,860 homes, while another 1,551 homes rely on hauled water or individual wells. Water on the Reservation is frequently microbiologically contaminated, especially during the summer. Two of 51 rural wells sampled in the period 1970-1980 showed nitrate levels higher than EPA's *maximum contaminant level* (MCL) of 10 milligrams-per-liter (mg/l). Secondary contaminants (those affecting aesthetics of the water) are also a problem. Eighteen (18) of 51 rural wells sampled in the 1960's showed total dissolved solids (TDS) higher than the MCL of 500 mg/l. The highest TDS found was 2,910 mg/l. Sulfates (MCL=250 mg/l) in some wells are also high, with the highest level at 1,640 mg/l (OST, 1991d).

TDS and sulfates in the 6 systems in the West River Service Area were higher than drinking water standards, with TDS averaging 1,475 mg/l (the highest 1,888 mg/l), and sulfates 777 mg/l (the highest 1,088 mg/l). Rural households in the service area depend on poor quality surface or groundwater sources or haul water.

TDS and sulfates are also high in the municipal systems in the Lyman-Jones Service Area, with TDS in 6 of them (the seventh untested) averaging 1,680 mg/l (with a high of 2,056 mg/l), sulfates in four of them (the rest untested) averaging 896 mg/l (the highest 1,139 mg/l). Many rural households haul domestic and livestock water, or depend on surface or groundwater sources of poor quality.

Water quality is fair in portions of the Rosebud Service Area. For the 10 systems sampled, the TDS averaged 295 mg/l (highest 869 mg/l) and sulfates averaged 64 mg/l (highest 410 mg/l). The communities and rural homes in the northern portion of the service area have water quality and quantity problems comparable to the Lyman-Jones Service Area. Elevated arsenic levels have been reported in the Grass Mountain area. In the southern portion of the service area, nitrate concentrations as high as 67 mg/l (MCL is 10 mg/l) have been encountered in isolated wells completed in the High Plains Aquifer.

Water supply and water quality in the villages of Lower Brule and West Brule are an exception in the Mni Wiconi Project area since water comes from the nearby Missouri River. Water quality in the villages is good. TDS, for instance, is generally less than the 500 mg/l secondary standard. However, the 60 rural households outside Lower Brule and West Brule must depend on surface or groundwater of poor quality.

Public Law 100-516 provides for purchase, improvement, and repair of existing water systems and systems owned by individual tribal members and other residents of the Pine Ridge Reservation. It is expected that the public, school and individual water systems will be incorporated into the project based on consensus of the people served. In the non-Indian project areas, public and school water systems will be served by the respective projects, but the systems will be operated and maintained by existing entities.

ES-4. Water Supply Requirements for All Service Areas

P.L. 100-516 required that needs assessments for the Pine Ridge Indian Reservation and the Lyman-Jones and West River service areas be developed to determine the water quality and quantity requirements for these areas. P.L. 102-575 authorized planning studies, including a needs assessment, to be performed for the Rosebud Sioux Tribe for consideration of incorporating the Reservation into the project. The needs assessments have been prepared by each of the entities and are for the purposes of this project only. As time passes additional needs may be identified.³

³ Tribal Council resolutions, not presented in this report, address these matters.

Overall population has grown in the project area from 27,930 people in 1960 to 33,568 in 1990: the West River Service Area lost 2,177 from 1960 to 1990 (to 5,793), and Lyman-Jones lost 2,735 during the same period (to 4,399). Indian population, on the other hand, has grown steadily, from 6,784 people on the Pine Ridge Reservation in 1960 to 12,837 in 1990, from 5,457 to 9,351 on the Rosebud, and from 585 to 1,188 on Lower Brule. The Indian population on the three Reservations in the project area has increased 82 percent since 1960.⁴

Design population for West River and Lyman-Jones reflects a slightly increasing population and the assumption that all future residents of the service area will receive project water. Design populations for the Reservations were based on Indian growth trends in South Dakota over the past 100 years and on the observation that Indian population on the three Reservations in the project area has increased. Table ES-2 shows overall design population for the Mni Wiconi Project and future water demands for the population and livestock. Of the total annual usage (12,474 acre-feet), 8,591 acre-feet will be diverted from the Missouri River and 3,883 acre-feet will be withdrawn from safe and adequate groundwater supplies in the preferred plan. (See Section ES-6). Limited quantities of safe groundwater are only available from the High Plains and Inyan Kara aquifers, primarily in parts of the Pine Ridge and Rosebud Indian Reservations.

TABLE ES-2
DESIGN POPULATIONS AND ANNUAL WATER REQUIREMENTS

Statistic	Pine Ridge	West River	Lyman Jones	Rosebud	Lower Brule	Total
Design Population	21,000	6,765	4,927	17,000	1,943	51,635
Livestock Units	57,040	91,310	86,777	32,843	6,841	274,811
Population Design Flow Rate, gpm	4,469	1,170	878	3,566	414	10,497
Livestock Design Flow Rate, gpm	703	1,126	1,070	406	84	3,389
Total Design Flow Rate, gpm	5,172	2,296	1,948	3,972	498	13,886
Annual Usage, acre feet	4,534	2,440	2,052	3,004	444	12,474

⁴ U.S. Census data, upon which these statistics are based are not considered reliable by the Indian Tribes (see note 8, p.11, Main Report, *infra*).

ES-5. Formulation of Alternative Plans

Four alternative plans were developed to serve the project area. The plans vary by the source of project water and the entities served.

Plan I--would provide Missouri River water to the Pine Ridge Reservation, West River, and Lyman-Jones as authorized in the Act. Three levels of funding are considered: 1) authorized, 2) full needs for Pine Ridge and 3) full needs for all three service areas.

Plan II--would add the Rosebud and Lower Brule Reservations to Plan I with full needs funding only.

Plan III--would serve the same area as Plan I except that Pine Ridge and West River would derive some of their supply from groundwater. Three levels of funding are considered: 1) authorized, 2) full needs for Pine Ridge and 3) full needs for all three service areas.

Plan IV--would add Rosebud and Lower Brule to Plan III with full needs funding. Pine Ridge, West River and Rosebud would receive some of their supply from groundwater.

Within each plan, three levels of funding, three routes for building the Oglala Sioux Rural Water Supply System core, and numerous alternatives for system features were examined and are reported. (See Chapter 6, *Selection of Plans and Features*, for full discussion.)

Alternatives for supplying a safe and adequate drinking water system for the project area were examined in detail. All groundwater sources in the area were carefully scrutinized. Those sources include the Madison, Inyan Kara and High Plains aquifers, as well as shallow alluvium adjacent to major streams in the area. It was found that the Inyan Kara Aquifer can supply small amounts of good quality water toward the western edge of the project area. The High Plains Aquifer has significant storage and recharge relative to project demands and was considered a reliable supplement to the Missouri River for the Pine Ridge and Rosebud Indian Reservations.

The White River, Little White River, Cheyenne River and smaller surface water sources were also considered. Supplies from the White River and the Cheyenne River were found to be undependable in quantity and of poor quality during many times of the year. The Little White River does not have the capacity to serve as the sole water source for the

Pine Ridge or Rosebud Reservations, but may warrant additional study as a supplemental water source for demands beyond the design year.

Alternative points of diversion along the Missouri River and alternatives for sizing the main transmission system between the Missouri River and the Pine Ridge Indian Reservation were also examined. All sources of water other than the Missouri River, High Plains Aquifer and limited use of the Inyan Kara Aquifer were eliminated due to poor water quality or inadequate supply. The environmental impacts associated with these alternatives were similar and did not affect location and sizing decisions as significantly as construction costs. The examination of alternative points of diversion, pipeline routes and pipeline sizing was primarily to identify a project that would provide the level and quality of service needed at the least cost.

Table ES-3 summarizes construction costs (October 1992 dollars) for the plans and funding levels not eliminated due to cost. The cost of alternative plans to meet the needs of the service areas significantly exceeds the authorized level of funding. Plans I and II, which rely exclusively on water supply from the Missouri River, were considered too costly and were rejected (Table ES-3, *Total* column). Only Plans III and IV, which rely partially on groundwater, were given further consideration. Plan IV is the preferred plan, and all project participants concur in this selection.

TABLE ES-3
PROJECT CONSTRUCTION COSTS
(October 1992 Dollars)

Plan	Funding Level	Pine Ridge	West River	Lyman Jones	Rosebud	Lower Brule	Total
Plan I	Full Needs	\$172,830,000	\$32,783,000	\$35,866,000	--	--	\$241,479,000
Plan II	Full Needs	182,642,000	32,783,000	31,726,000	54,726,000	6,232,000	308,109,000
Plan III	Authorized	82,108,000	19,711,000	22,084,000	--	--	123,903,000
	Ogjala Needs	127,346,000	19,711,000	22,084,000	--	--	169,141,000
	Full Needs	132,570,000	32,783,000	35,866,000	--	--	201,219,000
Plan IV*	Full Needs	145,300,000	32,783,000	31,726,000	47,200,000	6,232,000	263,241,000

* Preferred plan.

Note: Construction costs were determined as described in Section 4.2, Definition of Costs.

Plan III was evaluated at three funding levels: authorized funds, amended authorization to meet Pine Ridge needs and fulfill the trust responsibility, and amended authorization to meet Pine Ridge, Lyman-Jones and West River needs.

Plan III with authorized funds is not preferred because only partial needs of Pine Ridge, Lyman-Jones and West River are met (43% of the design population can be served, see Table ES-8). The extension of the distribution system in each of the service areas would be limited, and many residences would not be reached. Intermediate steps in the funding levels of Plan III do not address the full needs of Lyman-Jones and West River. None of the needs of Rosebud and Lower Brule are addressed.

Plan IV brings all service areas into the project. It addresses the full needs of Pine Ridge, Lyman-Jones and West River at a cost of \$77,316,000, the difference between Plan III costs with all needs met and Plan III costs with authorized funds. It also addresses the full needs of Rosebud and Lower Brule at a cost of \$62,022,000, the difference between Plan IV costs (full needs) and Plan III costs (full needs).

ES-6. Preferred Plan of Development - Plan IV

The plan preferred by the sponsors for the Mni Wiconi Rural Water Supply Project is Plan IV (Route A). The plan will deliver water to a design population of 51,635. The project will serve Pine Ridge, Rosebud and Lower Brule, home to a part of the Great Sioux Nation, and Lyman-Jones and West River (Figure ES-1). This plan requires amendment of Public Law 100-516 to include Rosebud and Lower Brule and an increased funding authorization for existing service areas.

Table ES-4 summarizes the construction costs of Plan IV, compares them to the funds authorized by P.L. 100-516, and presents the additional funds required.

Plan IV has a construction cost of \$263,241,000 (October 1992 prices). The indexed value of the Federal funds authorized by Congress in Public Law 100-516 is approximately \$105 million (October 1992 prices). This consists of \$78,293,000 for the Oglala Sioux Rural Water Supply System and \$27,101,000 for the West River and Lyman-Jones rural water systems. Non-Federal cost share for the Lyman-Jones and West River rural water systems provides an additional \$14,593,000, bringing the total available for Lyman Jones and West River to \$41,694,000. Total funds available for the project are \$120 million, less than half of the funding needed for development of the preferred Plan IV project.

TABLE ES-4
PROJECT COSTS AND FUNDING REQUIREMENTS - PLAN IV

	Construction Costs	Authorized Funding	New Funds Required
Pine Ridge ⁵	\$145,300,000	\$78,293,000	\$67,007,000
Lyman-Jones and West River	64,509,000	41,694,000 ⁶	22,815,000 ⁷
Rosebud and Lower Brule	53,432,000	0	53,432,000
Total	\$263,241,000	\$119,987,000	\$143,254,000

The addition of the Rosebud and Lower Brule Reservations increases the population served by 18,950 people and project costs by \$53,432,000 (excluding Oglala Sioux Rural Water Supply System core costs). The incremental per capita cost for the people served in the Rosebud and Lower Brule Reservations is only \$2,834. The 1988 report, supporting Congressional authorization of Public Law 100-516, provided for a population of about 19,981 individuals rather than the 51,635 now proposed for inclusion in the project. The physical layout for Plan IV is shown in Figure ES-2.

Additional funding authority needed for the Plan IV project is \$143,254,000. Of that amount, \$135,269,000 is the Federal requirement, and \$7,985,000 is the non-Federal requirement based on 35% cost share by Lyman-Jones and West River, as specified in the authorizing legislation.

Of the \$135,269,000 Federal funds required, \$53,432,000 is needed for the addition of Rosebud and Lower Brule to the project (service area costs beyond interconnection with the Oglala core system). An additional \$33,901,000 is needed for the core of the Oglala Sioux Rural Water Supply System to meet the needs of an expanded project. Within the service areas of Pine Ridge and West River/Lyman-Jones, additional Federal funds in the amount of \$33,106,000 and \$14,830,000 are needed, respectively.

Operation and maintenance costs of Plan IV are \$5,934,000 annually, of which approximately \$4,624,000 is Federal cost and \$926,000 is the responsibility of Lyman-Jones and West River. This is equivalent to \$1.46 per 1,000 gallons (See Section 6.4). The 1988 *Planning Report and Environmental Assessment*, relied on by Congress in authorizing Public

⁵ Includes \$33,901,000 for expanded core system and \$33,106,000 for Pine Ridge Service Area; costs for Pine Ridge include the Oglala Sioux Rural Water Supply System Core, which will supply all service areas.

⁶ Includes LJ/WR cost share (35%) of \$14,593,000.

⁷ Includes LJ/WR cost share (35%) of \$7,985,000.

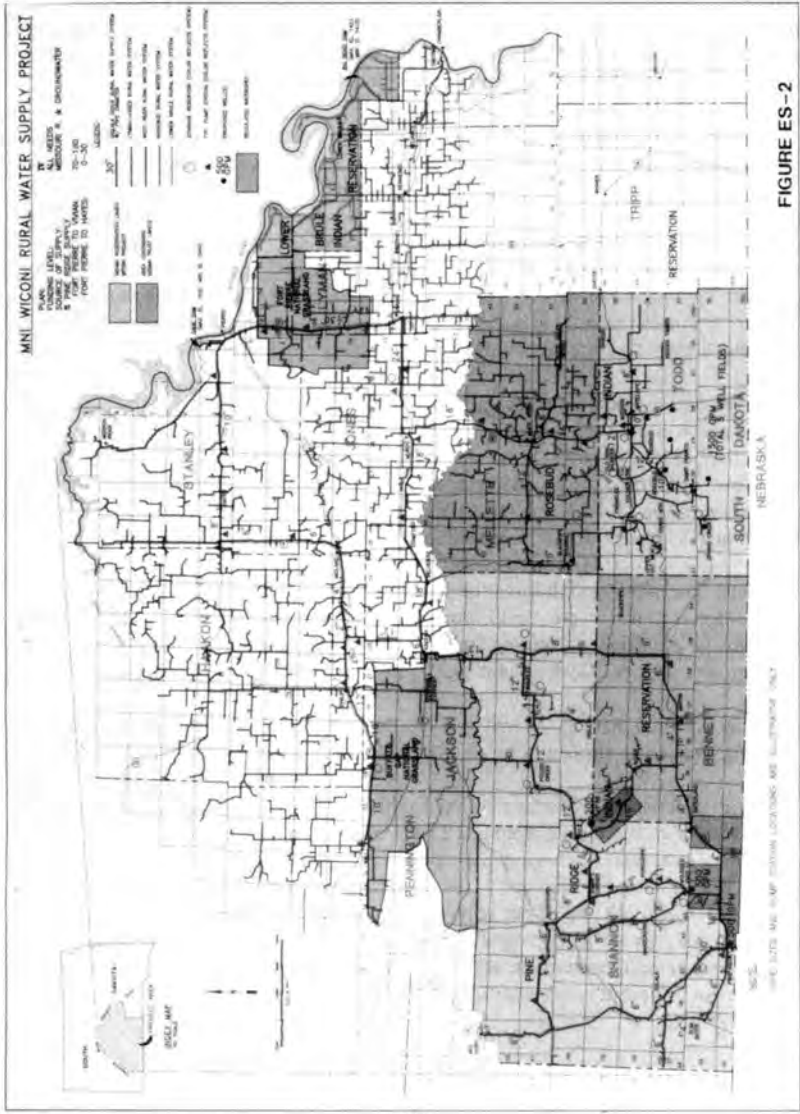


FIGURE ES-2

Law 100-516, contemplated an annual operation and maintenance cost of \$1.51 to \$1.74 per thousand gallons. Therefore, the costs per household and per individual for this project are less than previously identified. The reduction in cost is due to expansion of the project to serve a population nearly three times the population originally envisioned.

Funding for operation and maintenance of the Oglala Sioux Rural Water Supply System and Rosebud and Lower Brule rural water systems will be derived from sums appropriated by Congress. From the points of interconnection with the Oglala Sioux Rural Water Supply System, funding for operation and maintenance of the Lyman-Jones and West River rural water systems will be derived from user paid fees (monthly water bills). Monthly water bills to recover debt associated with the non-Federal cost share and to recover operation and maintenance expenses are estimated at \$28 per month in the municipalities and \$83 per month in the rural areas. While the rural costs are high, the sponsors in these areas conclude that the costs are within the capability of the users to pay.

Water conservation plans for each of the service areas and use of groundwater on Pine Ridge and Rosebud are reflected in Plan IV and resulted in reduced costs to the level presented here (\$263,241,000). In the absence of water conservation, the Plan IV project would have an additional construction cost of \$27.1 million (Table ES-5). Without the use of groundwater on the Pine Ridge (50%) and Rosebud (38%) Indian Reservations and at Wall, the Plan IV project would have additional construction costs of \$44.9 million.

Public Law 100-516 authorizes the purchase of public and private water systems on the Pine Ridge Indian Reservation to incorporate them in the Oglala Sioux Rural Water Supply System. The Tribe's governing body will consider donation of tribally owned systems as a further cost savings. Costs of purchase are not reflected in the construction costs.

Table ES-5 summarizes the savings to the project stemming from water conservation and use of groundwater (in lieu of an all Missouri River water source).

The Plan IV water project is essential for health. In the United States between 1971 and 1974, cases of gastroenteritis averaged 2,700. On Pine Ridge and Rosebud Reservations annual cases of gastroenteritis averaged 811 and 375, respectively, for the years 1987 through 1989. This is a significant percentage of the national average. Cases of shigellosis averaged 900 per year in the 1970's and 97 per year in the 1980's on Pine Ridge. These water borne diseases and others, such as impetigo and hepatitis-A, must be eliminated in the closing years of the twentieth century on the Pine Ridge, Rosebud and Lower Brule Indian Reservations to achieve a reasonable standard of living.

TABLE ES-5
 POTENTIAL PROJECT SAVINGS DUE TO WATER CONSERVATION
 AND USE OF HIGH QUALITY GROUNDWATER

Project Costs	Plan IV Construction Costs	Savings	Flow Rate (GPM)	Flow Rate Reduction (GPM)
Without Water Conservation	\$335,226,400		15,514	
Water Conservation		\$27,117,000		1,628
All Missouri River Source	\$308,109,000		13,886	
With Groundwater		\$44,868,000		4,587
Missouri River and Groundwater	\$263,241,000		9,299	

Plan IV provides the foundation for improved health as its first priority. As a secondary consequence of the project, however, jobs will be created on the Indian Reservations where income levels are among the lowest in the Nation. Bureau of Census statistics for two decades have identified the western half of the Pine Ridge Indian Reservation as the poorest area in the Nation. Similar statistics for Rosebud (1990 census) identify the Reservation as the tenth poorest county (Todd County) in the Nation. During construction, Plan IV will create 50 jobs annually in administration of construction contracts and related activities on the Indian Reservations, and 186 jobs annually in construction (all service areas). Following construction, 75 jobs annually will be associated with operation and maintenance of the project (all service areas). An estimated 114 jobs will be created annually with authorization and implementation of the fish, wildlife and natural resources plan (Chapter 9). Table ES-6 summarizes employment benefits associated with the Plan IV project.

TABLE ES-6
 PROJECTED ANNUAL EMPLOYMENT IN THE MNI WICONI PROJECT

Service Area	Annual Employment Over Ten Year Period			Annual Employment in Perpetuity		
	Construc- tion	Construc- tion/Admin.	Construc- tion Total	Operation/ Maintenance	Fish & Wildlife Plan	Total
Pine Ridge Reservation ^a	95	35	130	50	14	64
Lyman-Jones Service Area	28	--	28	4	7	11
West River Service Area	33	--	33	4	7	11
Rosebud Reservation	23	13	36	12	9	21
Lower Brule Reservation	7	2	9	5	2	7
Total	186	50	236	75	39	114

^a Includes Oglala Sioux Rural Water Supply System core.

Plan IV also provides water for livestock in the Indian and non-Indian service areas. Water will be provided to support 274,811 cow units or their equivalents. On the Pine Ridge, Rosebud, and Lower Brule Indian Reservations, wildlife, including buffalo, deer, antelope and other foraging species are more likely to use parts of the grasslands rather than domesticated livestock.

ES-7. Plan of Development - Plan III, Authorized Funds

Plan III presents a project which uses the Missouri River and groundwater as the water supply for the project. Plan III considers three levels of funding and associated distribution systems for the three authorized participants of Pine Ridge, Lyman-Jones, and West River, (Table ES-3) but only the first level of service (authorized funds) is presented here. (Expansion of the project to serve Rosebud and Lower Brule is not part of Plan III.) This plan presents the project that is proposed for construction if Public Law 100-516 is not amended to increase the authorization of funds for construction. Groundwater supply on the Pine Ridge Indian Reservation will provide 50% of the future demand.

The plan has a construction cost of \$123,903,000, slightly more than the \$120 million in indexed, authorized funding from Public Law 100-516 (including cost share). The core pipelines of the Oglala Sioux Rural Water Supply System between the Missouri River and the Pine Ridge Indian Reservation and the pipeline distribution systems within Pine Ridge, West River and Lyman-Jones would be constructed with sufficient capacity to meet projected future demands. The pipelines and other facilities, however, would not be constructed along all of the routes necessary to serve present and future population and associated demands. The pipeline distribution system can be extended if additional funds are made available at a later date. The intake and treatment plant would be constructed to less than the capacity required for development of the project to meet full demands of the three service areas. Provision in design for expansion of the intake and treatment plant will be made in the event additional funding becomes available. Table ES-7 summarizes the costs of Plan III developed with authorized funds.

Priorities were established within each service area for the best use of the available funding to meet partial needs. However, this plan falls far short of the needs of the three service areas. Only 22,136 of the design population of 51,635 can be served. Only 152,767 of the 274,811 cow units can be served. Only 96 construction jobs, rather than 186 are created. (See Table ES-8). It is for these reasons that all project participants seek Plan IV.

TABLE ES-7

CONSTRUCTION COSTS - PLAN III - FUNDING LEVEL 1			
	Construction Costs	Authorized Funding	New Funds Required
Pine Ridge	\$ 82,108,000	\$78,293,000	\$3,815,000
Lyman Jones & West River	\$ 41,795,000	\$41,694,000 ⁹	\$ 101,000 ¹⁰
Rosebud & Lower Brule	\$ 0	\$ 0	\$ 0
Total	\$123,903,000	\$119,987,000	\$3,916,000

The basic layout of the system of Plan III - Funding Level 1 is shown in Figure ES-3. This figure should be contrasted with Figure ES-2, which shows full development of the Mni Wiconi Rural Water Supply Project.

ES-8. Environmental Mitigation and Enhancement

Figure ES-4 is a map of the environmental resources identified throughout the project area. The *Environmental Assessment* demonstrates that the effects of the project on the environment are limited and can be mitigated. The project participants have committed to taking the necessary steps to avoid damage to environmental resources and to mitigate those that are unavoidable. Costs of site restoration, primarily by replacement of vegetation, are estimated at \$3,522,000. Costs of fisheries, wetland, riverine and upland habitat mitigation have been estimated at \$709,000 (Section 4.13). Site restoration and mitigation costs are included in the project costs previously presented.

A fish, wildlife and natural resources plan has also been developed to address opportunities beyond mitigation of impacts. The fish, wildlife and natural resources plan will provide for on-going environmental improvement within the service area of the project. The plan provides for wetland creation and restoration, tree planting, food plots for wildlife, nesting habitat, improved tillage techniques, bison and elk management, grassland management, lake restoration, riparian habitat restoration and natural resources education, among other things. The fish, wildlife and natural resources plan will require an amendment of Public Law 100-516 for Plan III or Plan IV.

⁹ Includes LJ/WR cost share (35%) of \$14,593,000.

¹⁰ Includes LJ/WR cost share (35%) of \$35,000,000.

The fish, wildlife and natural resources plan proposes the creation of four trust funds totaling \$25 million. (See Chapter 9.) Appropriations will be requested over the 10 year construction period in order to create the trust funds set forth above. In addition to the establishment of the trust funds, one-time appropriations to initiate the fish, wildlife and natural resources plan will be sought in the amount of \$1,500,000. Interest income from the trust funds will be used to finance continuing implementation of the fish, wildlife and natural resources plan.

ES-9. Conclusion

Table ES-8 compares project statistics, including costs of the re-formulated project using authorized funds (Plan III) and costs of the re-formulated project relying on new funding from Congress in the amount of \$135.3 million (Plan IV). Table ES-8 demonstrates the differences in the plans that have resulted in preference by the sponsors for Plan IV.

TABLE ES-8
COMPARISON OF PREFERRED AND AUTHORIZED PLANS

Statistic	Preferred Plan IV	Plan III, Authorized Funds	Changes From Plan III to Plan IV
Distribution Capacity, gpm			
Missouri River	9,300	3,670	5,630
Groundwater	4,290	2,790	1,500
Total	13,590	6,460	7,130
Costs			
Construction	\$263,241,000	\$123,903,000	\$139,338,000
Per Capita Costs	5,098	5,597	-499
Annual O and M	5,943,000	3,194,000	2,749,000
Annual Replacement	632,000	311,000	321,000
Present Value	\$337,250,000	\$163,356,000	\$173,894,000
OM per 1,000 Gallons	1.46	1.50	-.04
Service			
Population	51,635	22,136	29,499
Animal Units	274,811	152,767	122,044
Annual Employment			
Construction	186	96	90
Tribal Administration	50	22	28
Operation and Main	75	41	34

Table ES-9 analyzes all project costs of Plan IV, including construction, environmental mitigation and environmental enhancement through the fish, wildlife and natural resources plan. Total costs of the project are \$289,741,000. Of this amount, \$22,578,000 is non-Federal cost share, and the balance will be required from Congressional appropriations.

TABLE ES-9
PROJECT COST SUMMARY
PREFERRED PLAN - PLAN IV

Item	Amount	Percent
Construction		
Major Field Items	\$153,167,868	52.9
Site Restoration	3,522,000	1.2
Mitigation	709,000	.2
Appurtenant Items	19,674,859	6.8
Contingencies	17,707,373	6.1
Non-Contract		
Off-Reservation Base	12,419,952	4.3
On-Reservation Base	41,063,286	14.2
On-Reservation Administration	14,976,663	5.2
Subtotal	\$263,241,000	90.9
Fish, Wildlife and Natural Resource Plan		
Initial	1,500,000	.5
Trusts	25,000,000	8.6
Subtotal	\$26,500,000	9.1
Total	\$289,741,000	100.0

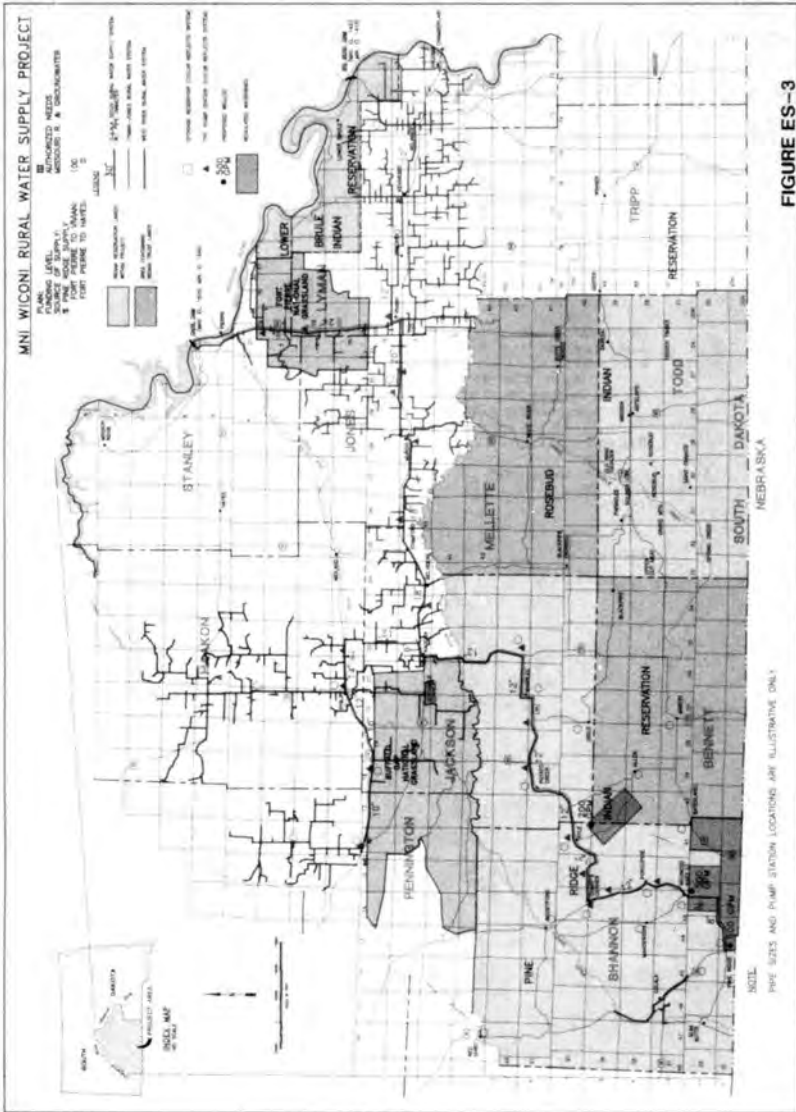


FIGURE ES-3

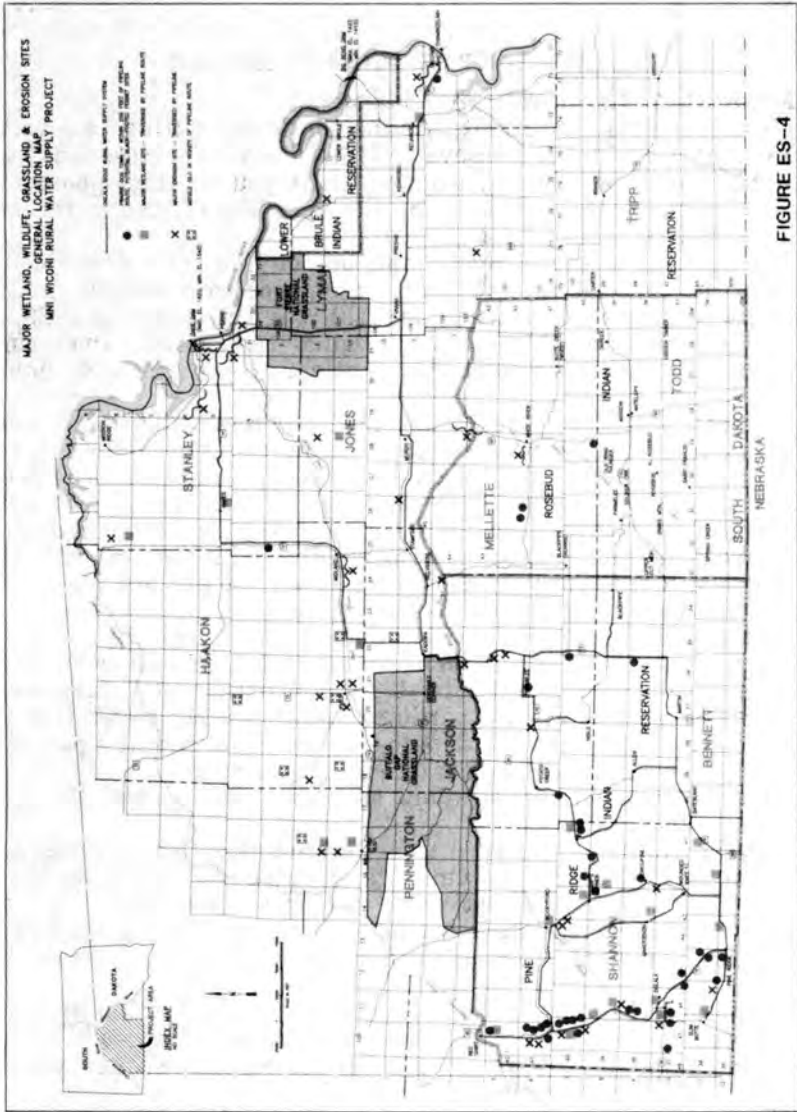


FIGURE ES-4

Mr. JOHNSON. Thank you.
Mr. Kindle.

STATEMENT OF WILLIAM KINDLE

Mr. KINDLE. Thank you, Mr. Chairman.

My name is William Kindle. As the gentleman sitting here before me stated, I am not from Beverly Hills. I am from Rosebud. I am the chairman down there. I want to thank you for this opportunity to discuss the participation of the Rosebud Sioux Tribe in the Mni Wiconi Project.

I don't want to sound redundant, but at this point I would like to state in 1825, 1851, and 1968 we entered into several treaties with the United States, which are still in effect today. In 1989, an Act of Congress established the original reservation. Over time, that was opened up for non-Indian settlement and gradually diminished.

So today only Todd County is considered reservation land. However, we have trust land in all the original counties of the reservation. The diminishment of our lands directly relates to why Rosebud is here today trying to become a part of Mni Wiconi. We suffer the same water-related problems as the currently authorized sponsors. We share the same trust responsibility with the United States as our cousins, the Oglala Sioux. However, we are not yet an authorized part of the Mni Wiconi Project.

In the early 1960s, the tribe worked unsuccessfully with the predecessors of the Lyman-Jones premium to promote rural water development in the county. In 1980, the tribe and Lyman-Jones people met again to discuss participation. It was suggested that the tribe or tribal members participate as private entities and pay \$300 for each service connection and a monthly water bill.

We could not and cannot afford this. This also ignored the trust created by our treaties.

In 1981, the tribe observed that the proposed Lyman-Jones system would cross over large amounts of Rosebud Sioux trust lands, yet at that time would not serve our tribal members. We were asked to grant right-of-ways across our trust lands and not receive any water. So until Rosebud is authorized, this will remain the case.

In 1991, we began working with the Bureau of Reclamation and the project sponsors. In 1992, Congress authorized a needs assessment for Rosebud. We prepared the needs assessment and worked on the final engineering report for Mni Wiconi.

All parties now realize Rosebud should be a part of the project, and include Rosebud in the Mni Wiconi. The project benefits the people and the Federal trust responsibility will be fulfilled.

Our need for water is not unlike the rest of America. The availability of safe and adequate drinking water is considered a fundamental part of American life.

For many people of the Rosebud, this part of the American dream is still unmet. As we sit here today, many of our people still haul water in buckets and containers.

The lack of quality water has hurt the health of our people and our economy. There are many chronic diseases, the one I think of

right off the top of my head is hepatitis. We have a high rate of hepatitis on our reservation.

The health of our economy also suffers. Todd County is the tenth poorest county of the Nation, and 50 percent of the people live in poverty. We need water for the same things as the rest of the Nation: our household needs, our health and our livelihood. The question is, How can this need be met the best?

In our assessment we examined the possible sources of water that are available. In Todd and Mellette Counties, the availability of water is highly variable. In southern Todd County, the Oglala aquifer is present and prolific. The aquifer is not present in the northern portions of Todd County or in Mellette County.

Where present, the aquifer is not necessarily a safe or reliable supply. In some areas water levels are declining. In other areas, groundwater is contaminated by nitrates, arsenic and carbohydrates, where the Oglala is not present, a reliable supply of water is not available.

We believe that the Mni Wiconi Project will provide the most reliable source of high-quality water to the Rosebud Sioux. Mni Wiconi has proposed to combine Missouri River water and existing high-quality groundwater to meet our needs.

The use of Missouri River water provides a factor of reliability that groundwater alone cannot provide. With careful management, including water conservation, Mni Wiconi can meet our needs and raise our standard of living.

It is my understanding that the Administration supports the provision in H.R. 3954 pertaining to the Oglala, Rosebud and Lower Brule Tribe. We greatly appreciate this effort. However, I also understand that the Administration is opposed to cost-sharing provisions as applied to Lyman-Jones and West River. The provisions proposed in H.R. 3954 are the same as in Public Law 100-516. We ask that you support the cost-share provisions as set forth in H.R. 3954.

The proposed amendments to the Mni Wiconi Project Act provide an opportunity to improve our health, economy, and fulfill the trust responsibility of the United States. Through Mni Wiconi we will be closer to enjoying the standard of living most people take for granted. Mni Wiconi is a people project and not a traditional water development project. Please take this into consideration and remember the people of the Rosebud.

I want to thank you for your time and your scheduling of this meeting and hearing, and ask for your favorable consideration of the proposed amendments to the Mni Wiconi Project.

Thank you very much.

[Prepared statement of Mr. Kindle follows:]

TESTIMONY OF THE ROSEBUD SIOUX TRIBE
PREPARED FOR THE
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
OF THE HOUSE COMMITTEE ON NATURAL RESOURCES
MAY 24, 1994

INTRODUCTION AND BACKGROUND

Mr. Chairman and members of the Committee, my name is William Kindle. I am the president of the Rosebud Sioux Tribe. On behalf of the Rosebud Sioux Tribe, I thank the Committee for providing us with this opportunity to provide our views on HR 3594.

The Rosebud Sioux Tribe is aware of the importance of high quality water to the health of our people and our economy. In this vain, we have worked with the other project sponsors to make the Rosebud Sioux Reservation an authorized feature of the Mni Wiconi Project. Exhibit No. 1 shows the Rosebud Reservation in relation to the Mni Wiconi Project.

This hearing of the Subcommittee on Oversight and Investigations of the House Committee on Natural Resources provides the Rosebud Sioux the first opportunity to explain to Congress why we should be included in the Mni Wiconi Project. To better understand why Rosebud is not currently authorized and why the Mni Wiconi Project Act should be amended to include Rosebud, some historical background information is provided.

In 1825, our ancestors enter into our first treaty with the United States. Subsequent treaties were entered into in 1851 and 1868. The 1868 treaty created the Great Sioux Nation that covered parts of four present day states. At that time, and to this day, the treaties were and are solemn promises between two sovereigns.

In 1889, an Act of Congress set aside parts of the Great Sioux Nation specifically for the Rosebud Sioux Tribe. The 1889 Act of Congress is also important because it created what is

referred to as the Original Reservation. The Original Reservation is shown on Exhibit No. 1 as the Rosebud Primary and Secondary Service Areas. The Original Reservation was established as a tribal homeland for our people and encompassed several million acres.

Around the turn of the century, after most tribal members were given allotments, the homesteading era began. Gradually the lands within the Original Reservation were opened for non-Indian settlement. Only present day Todd County remained unopened. Although well over a hundred thousand acres are still held in trust for the Rosebud Sioux in Mellette, Tripp, Gregory and Lyman Counties, the federal courts ruled that those lands are outside of our present day reservation. Todd County is all that is considered to be within the present day reservation.

The diminishment of the Rosebud Sioux Indian Reservation directly relates to why Rosebud is having to come before Congress at this late date to become an authorized feature of Mni Wiconi. Rosebud suffers the same water related problems as the currently authorized sponsors and shares the same trust relationship with the United States as the Oglala Sioux. However, until the legislation is amended, Rosebud will not share in the benefits of Mni Wiconi.

LATE INCLUSION OF THE ROSEBUD SIOUX

The Rosebud Sioux have long known the importance of a safe and adequate water supply to the well-being of the Rosebud people. In the 1960's, Rosebud worked with the predecessors of the Lyman-Jones Rural Water Association to promote rural water development in Mellette County. Those early efforts were not fruitful for a variety of reasons.

By the mid-1980's efforts at rural water development began again. The Tribe and representatives of Lyman-Jones met and discussed tribal participation in the Lyman-Jones Rural Water System. At that time, it appeared that the only way for the Tribe or tribal members to participate in the Lyman-Jones system was as private entities. The Tribe was opposed to this approach for two reasons. The first, and in this case, crucial reason was the \$300 connection fee per residence served. Neither the Tribe, nor the vast majority of the tribal members have the financial ability to pay this amount.

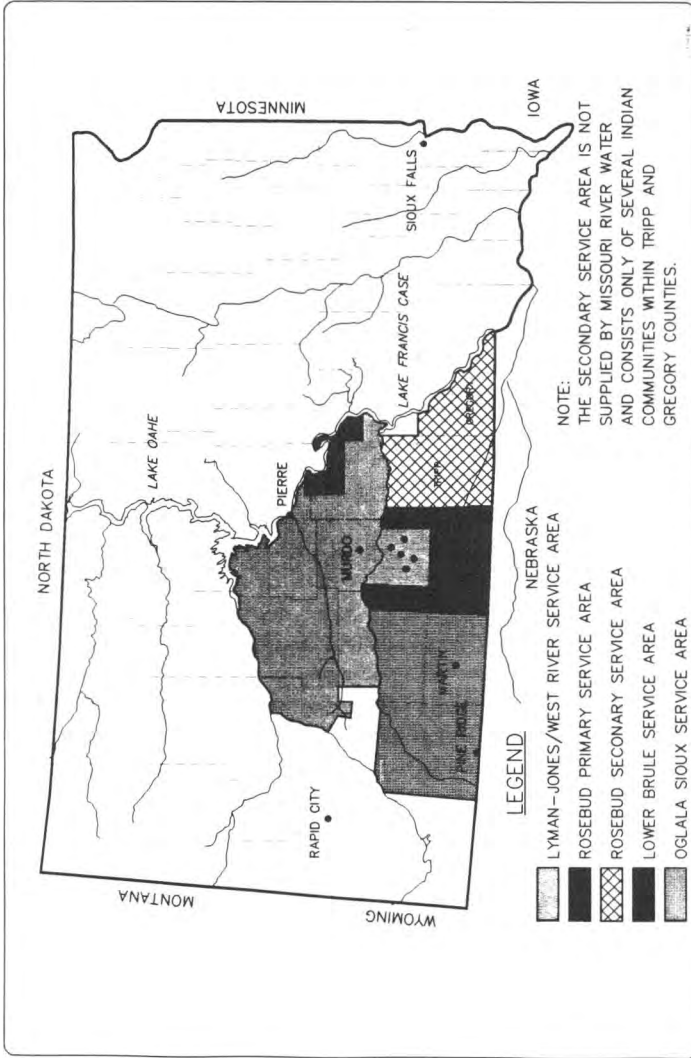


EXHIBIT 1

HKA ASSOCIATES
 ENGINEERS PLANNERS
 EM340.103 MAY 1994

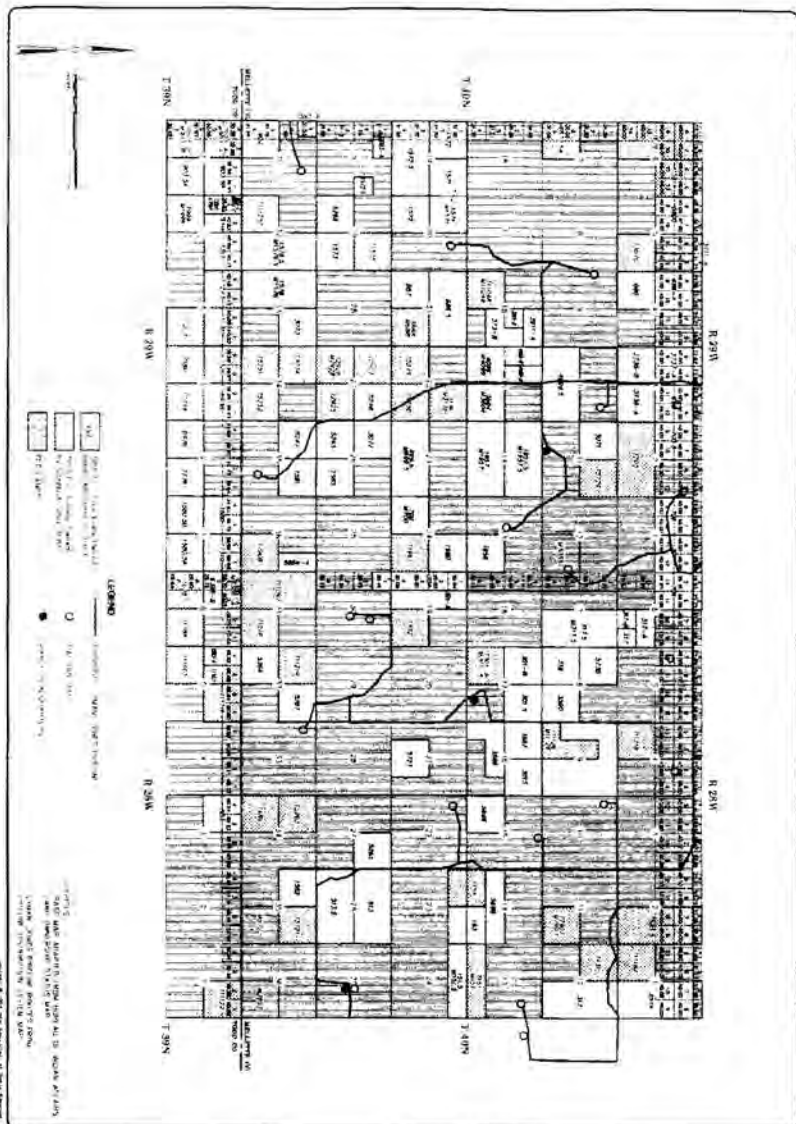
MNI WICONI WATER PROJECT
 LOCATION MAP
 MNI WICONI SERVICE AREAS

The second reason the Tribe was dissatisfied with participating as a private entity, was that such an approach ignored all aspects of the Tribe's sovereignty, treaty rights and the trust responsibility of the United States. The "private entity" approach was likely taken because the trust lands in Mellette County were considered "off-reservation". Because of the approach described above, compared to that taken with the Oglala Sioux Tribe, the Rosebud Sioux Tribe was not included in the original authorization.

Public Law 100-516 was passed in 1988 and the project sponsors began designing their distribution systems. The Rosebud Tribe kept abreast of the project and was periodically provided materials by the project sponsors. In 1991, the Tribe and their consulting engineers were provided the proposed layouts of the Lyman-Jones and West River distribution systems. When the layout of the Lyman-Jones system was superimposed over a landownership map it was evident that the Lyman-Jones system, as proposed at that time, crossed over large amounts of Rosebud trust lands, yet didn't serve tribal members. An example of such a situation is shown on Exhibit No. 2. It is unfair to ask the Tribe and tribal members to grant right-of-ways for water lines when they will not receive water. Until Rosebud becomes an authorized feature of the project this situation will not change.

MR&I NEEDS ASSESSMENT

In late 1991 and early 1992, the tribe we met with the Bureau of Reclamation to discuss our situation. The Bureau, much to their credit, recognized the unfairness of the situation and was able to fund an MR&I Needs Assessment of the Rosebud Sioux Tribe. At the same time Rosebud representatives were meeting with the Oglala Sioux Tribe and representatives of Lyman-Jones and West River. The existing sponsor were supportive of our efforts and work on our Needs Assessment began late in the spring of 1992. In October of 1992, Congress, thanks to the efforts of Congressman Tim Johnson and Senator Tom Daschle, recognized the need to evaluate the relationship of the Rosebud Sioux to the Mni Wiconi Project and formerly authorized the preparation of a needs assessment in P.L. 102-575. The Rosebud Sioux Tribe appreciates the actions of all those mentioned above.



HKA ASSOCIATES
ENGINEERS-PLANNERS
 3727 Central Avenue
 P.O. Box 21315
 Billings, Montana 59107

Branch Offices:
 Sheridan, Wyoming
 Rosebush & Miles City, Montana

ROSEBUD INDIAN RESERVATION
 SOUTH DAKOTA
 LYMAN-LONES DISTRIBUTION SYSTEM AND LAND
 OWNERSHIP IN A PORTION OF BELLETTE COUNTY

The Needs Assessment is a cornerstone document for this process. The Needs Assessment examines the water needs of the Rosebud Sioux, analyzes alternative means to meet those needs and based on a value matrix identifies a preferred alternative. Table 1 shows the value matrix utilized. The preferred alternative is discussed in greater detail in the Section entitled Rosebud Sioux Participation In Mni Wiconi.

Rosebud's need for water is not unlike that of the rest of America. The availability of a safe and adequate supply of water is considered a fundamental part of American life. For many of the Rosebud people this part of the American dream is still just that, a dream. Many of our people still must haul their water if they want to live on their trust land.

In some areas the water simply isn't available. Because of the geologic setting of our trust lands, some areas are blessed with good water while others are not. The Tribe has made an effort, through our small existing rural water system to bring good water to the areas where none is available. However, because the Tribes resources are limited, the service area of the existing system is also limited.

HEALTH AND ECONOMICS

The lack of quality water has hurt the health of Rosebud people and the tribal economy. The people of the RST suffer from many of the same health related problems as other Indian tribes. The incidence of some chronic diseases and infant mortality is higher than the national average. In addition, on the Rosebud Sioux Reservation the occurrence of certain illnesses, often related to unsatisfactory water supplies, is also higher than average. Gastroenteritis, shigellosis and infectious hepatitis are all diseases that can be water borne and transmitted. From 1981 to 1986, the Rosebud Reservation had the highest rate of occurrence of Gastroenteritis of the 26

**TABLE 1
MATRIX COMPARISON OF ALTERNATIVES**

Criteria	Weight Factor	Alternate 1		Alternate 2		Alternate 3		Alternate 4A		Alternate 4B	
		Value	Score	Value	Score	Value	Score	Value	Score	Value	Score
Water Quality	3	10	30	10	30	4	12	8	24	6	18
Long Term Supply Source Reliability	1	9	9	9	9	5	5	8	8	7	7
Capital Cost	4	1.8	7.2	1.1	4.3	8.9	35.7	4.1	16.3	5.3	21.2
Life Cycle Cost	2	1.3	2.5	0.9	1.8	9.0	17.9	4.6	9.2	6.0	12.1
Environmental Impact	1	5	5	8	8	9	9	8	8	8	8
Flexibility of Operations	3	4	12	3	9	6	18	10	30	8	24
Expandability	2	4	8	5	10	5	10	10	20	9	18
Constructability/Sequencing	2	4	8	6	12	8	16	9	18	9	18
Weighted Score			82		84		124		134		126
Relative Ranking (#1 indicating the preferred alternative)			#5		#4		#3		#1		#2

Alternate 1 Source is treated Missouri River water. Two connections to the OGRWSS
 Alternate 2 Source is treated Missouri River water. Shared facilities with LRVB in Madison County
 Alternate 3 Source is all groundwater. System is independent of other Madison County
 Alternate 4 Source is 80% groundwater. Shared facilities with LRVB
 Alternate 4B Source is 80% groundwater. 80% treated Missouri River water. Shared facilities with LRVB

reservations in the Aberdeen Area of the Indian Health Service. During the same time period, the rates of occurrence of occurrence for shigellosis and infectious hepatitis were consistently in the highest 25%. More recent data are not available from the Indian Health Service for the Rosebud Reservation.

The national primary water quality standards for two parameters, nitrate and arsenic, have been exceeded in samples from some Reservation wells. Elevated levels of nitrate can cause methemoglobinemia. Infants are particularly susceptible and this affliction is commonly called "Blue Baby Syndrome". Chronic exposure to elevated levels of arsenic adversely effects the nervous system. If the concentration is high enough and the exposure long enough arsenic poisoning can be fatal. Arsenic is also a known carcinogen. The risk of skin cancer rises sharply with increasing concentrations of arsenic. The removal of either arsenic or nitrates is expensive.

Not only does the health of people suffer, the health of the tribal economy suffers as well. According to the 1990 Census, Todd County is the tenth poorest county in the nation. In Todd County, 50% of the people live at or below the poverty level. The toll this takes on present and future generations is difficult, if not impossible to measure.

It cannot be said with certainty that poverty is the direct result of a lack of a safe and adequate water supply. However, it is generally recognized that a supply of high quality water is essential for economic development. In a study entitled The Importance of Water Supply to Indian Economic Development, the highly regarded economic analyst David Dornbusch examined the economies of the Fort Berthold and Rosebud Reservations. The study found that on the Rosebud Sioux Reservation, full development is precluded by an inadequate water supply. For full economic development to occur an adequate water supply must be available.

In summary, the water needs of the Rosebud Sioux Tribe are the same as the rest of the nation; household needs, health and livelihood. The question becomes how can the needed water best be provided to meet these needs.

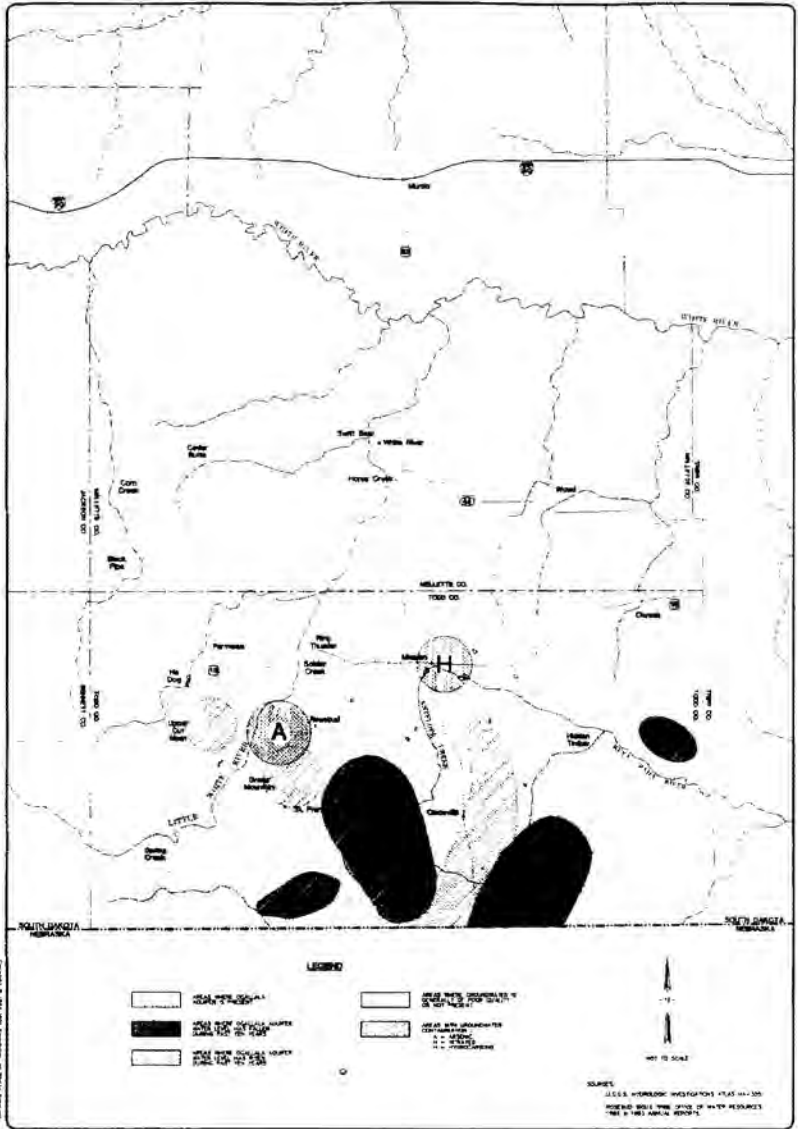
RESERVATION WATER SUPPLIES

The Needs Assessment examined the possible sources of water available to the Rosebud Sioux. In Todd and Mellette Counties, the primary areas proposed to be connected to the Mni Wiconi Project, the availability of high quality water is highly variable. In southern Todd County, the Ogallala Aquifer is present and prolific. This area is predominantly inhabited by non-Indians and irrigation use from the Aquifer is significant. The Aquifer is not present in portions of Todd County or Mellette County.

The Tribe has gone to a great deal of effort to better understand our water resources. The Office of Water Resources is headed by a professional hydrogeologist. Through that office, the Rosebud Sioux Tribe has monitored both the quality and quantity of water on the Reservation over the last decade. The results of this work are interesting and important to the effort at hand.

On Exhibit No. 3, the area underlain by the Ogallala Aquifer is shown in light blue. In the remainder of mapped area this Aquifer is non-existent or too thin to yield usable quantities of water. The change in the water levels of the Aquifer is also shown on this exhibit. The areas of most concern are those where the water level has fallen during the last decade. These areas are shown in red. There are also areas where concentrations of arsenic and nitrate exceed the national primary drinking water standards. The water around the town of Mission is contaminated by hydrocarbons. These three areas of contamination are also shown in red and labeled by contaminant. In essence, if the area is shown in red other sources of supply should be utilized.

Other possible sources of water are limited. Water from the Pierre Shale is heavily mineralized and therefore unacceptable for domestic or agricultural uses. The terrace deposits adjacent to stream valleys may yield some water, but these potential sources are of poor quality and generally "dry up" as the summer progresses.



P:\MP\001MCH0101\UAR0350.MKT
05/21/94

HEM ASSOCIATES
ENGINEERS-PLANNERS
 2727 Central Avenue Branch Offices
 P.O. Box 31318 • Cheyenne, Wyoming
 Billings, Montana 59107 • Bazemore & Miles City, Montana

PROJECT No. 80001-01 - 02/08/97 2001		S. Date: 08/01/98 & Reprint		S. Date: 08/01/98 & Reprint													
ROSEBUD BASIN RESERVATION SOUTH DAKOTA				<table border="1"> <tr> <th>Number</th> <th>Date</th> <th>By</th> <th>Revised</th> <th>By</th> <th>Date</th> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>		Number	Date	By	Revised	By	Date						
Number	Date	By	Revised	By	Date												
GROUNDWATER CONDITIONS IN THE ROSEBUD PRIMARY SERVICE AREA				<table border="1"> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>													

ROSEBUD SIOUX PARTICIPATION IN MNI WICONI

The participation of the Rosebud Sioux Tribe in the Mni Wiconi Project would eliminate or alleviate the problems discussed above. The Mni Wiconi Project is the most reliable source of high quality water available to the Rosebud Sioux.

The preferred alternative of the Needs Assessment, and an essential component of the preferred alternative of the Mni Wiconi Project Final Engineering Report, would combine Missouri River water and already developed high quality groundwater to meet tribal needs. The use of Missouri River water provides a factor of reliability that groundwater alone cannot provide. The preferred alternative calls for 62% of peak day needs to be met with Missouri River water, and 38% of the peak day needs to be met with groundwater supplied from existing wells. The existing wells are in an area where water levels are stable and no contamination has been found. With careful management, and the knowledge obtained through the ongoing Water Resources program, a wellhead protection program can be developed to maintain the viability of these existing sources throughout the life of the project.

The development of the integrated water distribution system will help raise the standard of living for the Rosebud people. If the Rosebud Sioux Tribe is included in the Mni Wiconi Project, the factors that allow for transmission of water borne illnesses would be significantly diminished. All water supplies would be chlorinated and rural homes and communities would be connected to the high quality water supply. People would no longer have to haul their water in open containers. A water conservation program that includes a leak prevention and detection program would also help insure the integrity of water pipelines and avoid waste. The high quality water would also eliminate the threat to human health resulting from the exceedances of the drinking water standards for nitrate and arsenic.

The availability of a reliable and adequate water supply should encourage economic development. As the term Municipal, Rural and Industrial indicates, water would be available for certain types of industry. Light manufacturing, processing of local agricultural products,

or other value added activities could be developed using Mni Wiconi water. Mni Wiconi water would not be used for agricultural irrigation.

In addition, the Mni Wiconi Project in itself will provide a multitude of socio-economic benefits to the Rosebud Reservation. Short term jobs would be created during the construction phase of the project. Of a total of 236 construction related jobs created by the preferred plan for the Mni Wiconi Project, 175 would be associated with the Indian service areas. Longer term employment opportunities would be associated with system operation and maintenance.

The Mni Wiconi Project also benefits from the inclusion of the Rosebud Sioux. The design population for the Rosebud Sioux Rural Water System is 17,000 people and approximately 33,000 animal units. This population projection is based on historic positive growth over the past three decades. The Rosebud Reservation is one of the few rural areas in South Dakota to show a long term positive growth rate. The inclusion of Rosebud brings long term stability to the project.

The inclusion of Rosebud and Lower Brule would increase the design population for the preferred alternative of the Mni Wiconi Project to 51,635. A comparison of the design populations of the currently authorized Project to the preferred alternative of the Mni Wiconi Project shows that the percentage of people in Indian service areas increases from 64% to over 77%.

The inclusion of Rosebud provides several economic benefits to the project. The per capita costs decrease by almost 10%. The operation and maintenance costs per gallon decreases as does the per gallon cost of distribution. The overall benefit to cost ratio also improves. As is apparent, economies of scale are realized with the inclusion of the Rosebud Sioux.

ADMINISTRATION'S POSITION ON HR 3954

It is my understanding that the Administration supports the provisions of HR 3954 pertaining to the Oglala, Rosebud and Lower Brule Sioux. We appreciate that support.

We also understand that the Administration is opposed the cost sharing provisions as applied to Lyman-Jones and West River. The provisions proposed in HR 3954 are the same as in P.L. 100-516. It is our understanding that the Administration is proposing that Lyman-Jones pay 100% of the costs for expansion of their service areas, 100% of the costs resulting from the proportional increase in the size of core system to serve the expanded service areas and 100% of the costs of operation and maintenance for the capacity of the core system necessary for their service areas.

This is not fair. The people in the Lyman-Jones and West River service areas suffer the same as we do, and while poverty is not as rampant as on the Rosebud Reservation, our non-Indian neighbors are by no means wealthy. To implement the cost share provisions as advocated by the Administration could undo the tremendous progress made in the past few years and destroy our newly forged relationships. We ask that you support the cost share provisions as set forth in HR 3954.

SUMMARY

In summary, HR 3954 provides Congress with several opportunities. By including Rosebud in the Mni Wiconi Project the United States will be recognizing and fulfilling its trust responsibility to the Rosebud people. It is important to recognize that Mni Wiconi is a people project and not a traditional water project. The health of the Rosebud people will improve by providing high quality water. Water will also be available to bring economic development which will in turn provide employment opportunities for our people. Through the Mni Wiconi Project, the Rosebud Sioux will have an opportunity to be closer to enjoying the standard of living most people take for granted.

Mni Wiconi is also a people project in that the people of our region have recognized a common need and banded together to improve their common situation. In the past two years, the Rosebud Sioux Tribe has worked with the Oglala Sioux Tribe, the Lyman-Jones and West River people and the Bureau of Reclamation. Through this process, new relationships have been forged and respect for each other has increase. If allowed to progress, this friendship and

respect will not be limited to Mni Wiconi, but will improve the quality of life in our area on a grander scale.

The Rosebud Sioux Tribe thanks you for your time and asks for your favorable consideration of the proposed amendments to the Mni Wiconi Project Act. If there are any questions, representatives of the Rosebud Sioux Tribe will be more than happy to answer them.

Mr. JOHNSON. Thank you.
We will turn next to Mr. Gourneau.

STATEMENT OF BOYD GOURNEAU

Mr. GOURNEAU. Thank you, Mr. Chairman.

My name is Boyd Gourneau. I am a member of the Lower Brule Tribe Council. I am here to give testimony for the record for H.R. 3954, the Mni Wiconi Rural Water Supply System.

First, I would like to recognize how quickly you and your staff have scheduled the hearing following the introduction of H.R. 3954.

I would like to express my appreciation to the Hon. Congressman Tim Johnson for introducing the bill in the House, and to the Chairman, Hon. George Miller, the committee and staff for scheduling the hearings so soon following the introduction of the bill.

I know the Lower Brule Tribe and the sponsors are anxious for the legislation to pass in this session, and it is clear you are doing everything you can to assist the passage. The Lower Brule Sioux Tribe fully supports H.R. 3954.

When passed, the bill will authorize the construction of the separate water service area for the Lower Brule Indian Reservation. Our system will begin outside the reservation at the town of Vivian. That is the intersection point of the pipeline of the Oglala Sioux Rural Water Supply System, which is the backbone of the Mni Wiconi Project.

From the Vivian, the Lower Brule water system will parallel Interstate 90 and will be built easterly for a distance of approximately 30 miles to Reliance. Along this route, the system will serve the Lyman-Jones communities of Presho and Kennebec.

Distribution systems for the reservation will enter the southern boundary at two locations. One will be a line extending north of Kennebec and another will be a line extending north from Reliance. Within the Lower Brule, the project will serve areas throughout the reservation.

Our first step will be to conduct a full needs assessment of the Lower Brule rural water system. All of the other parties of the Mni Wiconi Project have previously been authorized to expend funds for that purpose. The Lower Brule service area had not been contemplated in the original legislation, Public Law 100-516. It was authorized to conduct a needs assessment by Public Law 102-575, but the tribe has never had the authority or the funds to conduct work within the reservation.

We appreciate the efforts of the other parties, particularly the Oglala Sioux Tribe, to include the system in the final engineering report for the Mni Wiconi Project.

My tribe is located directly on the Missouri River at Big Bend. A substantial area of our reservation was taken in the late 1950s and early 1960s for the construction of the Fort Randall and Big Bend dams and Lake Sharpe. At that time, the population of the Lower Brule Sioux Tribe resided along the river.

Filling of the reservoir required us to move away from the river and on to the prairie. We left an abundant water supply and moved on to formations that produced little water of poor quality. We were fortunate to have an intake of water treatment plant that withdraws water from Lake Sharpe on the Missouri River for the prin-

cipal community of the reservation. All of the membership of the Lower Brule Sioux Tribe and other residents of the reservation that live outside the community, however, are without safe and adequate water supply.

Our proposed project would incorporate existing facilities in the Lower Brule community to build a new rural water distribution system to the outlying residents. The project will carry water for the livestock, which is the principal industry of our reservation.

The cost of the Lower Brule water system is estimated in the final engineering report at \$6.2 million. We are pleased that the Lower Brule system extends outside the reservation and connects with the Oglala rural water supply system. This will provide great employment opportunities and instruction, operation and maintenance than the smaller system confined only to the reservation.

Because employment opportunities are highly valued at Lower Brule, the membership of my tribe will greatly benefit.

Again, I express the appreciation of my tribe and its membership for the timely scheduling of the hearing, and the efforts made by the committee to advance legislation to conclusion during this session. I thank you for your time and consideration.

[Prepared statement of Mr. Gourneau follows:]

Mr. Chairman and members of the committee, my name is Boyd Gourneau, and I am a member of the Lower Brule Sioux Tribal Council. I am here today representing our tribal chairman, Michael B. Jandreau and the Lower Brule Sioux Tribe to give oral testimony for the record for H.R. 3954, the Mni Wiconi Rural Water Supply System.

First of all, I would like to recognize how quickly you and your staff have scheduled this hearing following the introduction of H.R. 3954. I would like to express my appreciation to the Honorable Congressman Tim Johnson for introducing this bill in the House and the chairman, Mr. George Miller, the committee and the staff for scheduling this hearing so early following the introduction of the bill.

I know the Lower Brule Sioux Tribe and other sponsors are anxious for this legislation to pass during this session, and it is clear that you are doing everything you can to assist us toward passage.

The Lower Brule Sioux Tribe fully supports H.R. 3954. When passed, H.R. 3954 will authorize the construction of a separate water service area for the Lower Brule Indian Reservation. Our system will begin outside the reservation at the town of Vivian. That is the interconnection point with the core pipeline of the Oglala Sioux Rural Water Supply System, which is the backbone of the Mni Wiconi Project. From Vivian, the Lower Brule rural water system will parallel Interstate 90 and will be built easterly for a distance of approximately 30 miles to Reliance. Along this route, the Lower Brule system will serve the Lyman-Jones communities of Presho and Kennebec. Distribution systems for the Lower Brule reservation will enter our southern boundary at two locations. One will be from a line extending north of Kennebec and the other will be from a line extending north from Reliance. Within the Lower Brule, the project will serve rural areas throughout the reservation.

Our first step will be to conduct a full needs assessment of the Lower Brule rural water system. All of the other parties to the Mni Wiconi Project have previously been authorized to expend funds for that purpose. A Lower Brule service area had not been contemplated in the original legislation, Public Law 100-516. Rosebud was authorized to conduct a needs assessment by separate legislation, Public Law 102-575, but the Lower Brule Sioux Tribe has never had authority or funds to conduct work within the reservation. We appreciate the efforts of the other parties, particularly the Oglala Sioux Tribe, to include the Lower Brule system in the final engineering report for the Mni Wiconi report. The project as presented in the final engineering report appears to address our needs, but my tribe would like to undertake additional investigations to determine if our needs are fully met and if the most cost-effective project for meeting our needs has been identified.

My tribe is located directly on the Missouri River at Big Bend. A substantial area of our reservation was taken in the late 1950s and early 1960s for the construction of Fort Randall and Big Bend Dams and the filling of Lake Francis Case and Lake Sharpe. At that time the population of the Lower Brule Sioux Tribe resided largely

along the Missouri River. Filling of the reservoirs required us to move away from the river and onto the prairie.

We left an area of abundant water supply and moved onto geologic formations that produce little water of poor quality. We are fortunate to have an intake and a water treatment plant that withdraws water from Lake Sharpe on the Missouri River for the principal community of the reservation, the Lower Brule village. All of the membership of the Lower Brule Sioux Tribe and other residents of the reservation that live outside this community, however, are without a safe and adequate water supply. Our proposed project would incorporate the existing facilities in the Lower Brule community and build a new rural distribution system to the outlying residences. The project will also carry water for livestock, which is the principal industry of the reservation.

The cost of the Lower Brule water system is estimated in the final engineering report at \$6.2 million.

As mentioned earlier, the system will carry water from east and south of the Lower Brule Indian Reservation and provide interconnection points to the Lyman-Jones system. We are pleased that the Lower Brule system extends outside the reservation and connects with the Oglala Sioux rural water supply system. This will provide greater employment opportunities in construction, operation, and maintenance than a smaller system confined to the reservation. Because employment opportunities are highly valued at Lower Brule, the membership of my tribe will benefit greatly.

Again, I express the appreciation of my tribe and its membership for the timely scheduling of this hearing and the efforts made by the committee to advance the legislation to conclusion during this session.

I thank you for your time and consideration.

Mr. JOHNSON. Thank you, Mr. Gourneau.

Mr. Cordes, could you elaborate a bit on the anticipated water rates that non-Indian individuals will pay under the current Mni Wiconi legislation and compare that to other water rates around South Dakota?

Mr. CORDES. Well, our anticipated monthly minimum charge, which is actually availability charge because we don't receive any water, is for \$43 a month we have an availability of the water.

Mr. JOHNSON. So it is \$43 just to have a tap there, but not for you to get a drop of water out of the tap?

Mr. CORDES. Right. Then each thousand gallons of water will be charged at \$2 or \$50 per thousand. There have been some recent studies done in the area. All studies indicate that these rates are in excess of the estimated ability to pay in our area. I think the average community household water bill is something like \$27.16 for an average community. For the rural members' water bill, we will have a charge of \$106.33.

Mr. JOHNSON. And the per capita income I assume in the Lyman-Jones/West River is not higher than the rest of the State, that in fact this is a substantial financial effort on their part?

Mr. CORDES. I would say that is a correct statement.

Mr. JOHNSON. South Dakota's tax base is also heavily dependent on real estate taxes, which you say are about as far as they can be pushed as well for sustaining the schools primarily in that part of South Dakota?

Mr. CORDES. That is absolutely true.

Mr. JOHNSON. Well, obviously we have some negotiating discussions to be had, understanding that the current cost share was not satisfactory to past Administrations either. But we will have some discussions with both the State of South Dakota on that amount of money that they can make a contribution to as well as to the non-Indian community.

But the whole plan is in this together. And I would have to say that the non-Indian community certainly has in good faith made an extraordinary financial contribution. The hard reality simply is that this is a very sparsely populated part of the country, and what we are trying to do is gain the economies of scale by having one massive water project which, while still costly to the non-Indian community, is a significant contribution from them, and frankly, is the only way we are going to get water out to that part of the country.

So I want to thank you, Mr. Cordes, for your work. And we will be very closely working with you on it as we nail down some of the details, which has to be done, as you say and as I appreciate, very promptly.

Mr. Kindle, you indicated that the tribe has fairly exhaustively reviewed all the other water options available to the Rosebud Tribe.

Mr. KINDLE. Yes, we have.

Mr. JOHNSON. That this is not a decision easily arrived at, that there have been a number of sort of false starts and efforts over the years.

Mr. KINDLE. Right.

Mr. JOHNSON. But you are satisfied at this point that, after all the shortcomings of the past, this is the one great opportunity for Rosebud to have water?

Mr. KINDLE. Yes, Congressman, we feel confident this will be the answer to our water problems down on the Rosebud.

Mr. JOHNSON. Mr. Lone Hill, of course, you come from the original existing Indian component to Mni Wiconi, and the most impoverished, although all of them have claims to significant poverty problems.

At this point, do you see the relationship between the Indian and non-Indian community as satisfactory, and are you confident that you could broaden that coalition still further to two additional Indian tribes and make this work?

Mr. LONE HILL. Yes, we would. The closer we work together, I guess, the mark that the late Governor, George Mickelson, left of reconciliation within the State itself of non-Indian and tribal members here, this is one of the things we want to do, is share. That is our major goal, to have adequate water and yet share with the rest of western South Dakota.

Mr. JOHNSON. I just want to add that Mr. Mario Gonzalez and Paul Little have played a very vital role over a long period of time in helping to bring this where we are today. I want to commend them for their efforts at Pine Ridge as well.

And, Mr. Gourneau, there is a certain irony in coming from a reservation that is essentially a riverside reservation and yet one that doesn't have adequate water. And based on your efforts and examination of all the alternatives, you too feel that even though you have that riverside presence, that the participation in this overall water system is the one realistic way that you are going to get water out to your members?

Mr. GOURNEAU. Yes, sir. Right now, I guess due to the inadequate planning of the growth of our community, this has really hurt our water supply. At home, I guess, you could pour a glass

of water and it would be just like the weather, fair to partly cloudy. And you would have to wait a minute to two minutes for it to clear up, and then you drink it. And I think it is because of the oxygen. That and the placement of our intake, the intake is opposite the main channel.

The main channel, there is a natural deepness to the water, and where our intake is, you have got to drudge, and where you drudge there is erosion and silt buildup. So I think that adds to the poor water quality on our reservation.

Mr. JOHNSON. And water quality at Lower Brule, particularly where in recent years you have made tourism and gaming a key part of your economy, and I assume that a steady supply of high-quality water is essential to the continuation of that economic growth on the Lower Brule.

Mr. GOURNEAU. Yes, sir. We don't want to say, You can go to Lower Brule, but don't drink the water. But yes, we are growing, and we will continue to grow, and hopefully have employment for our people.

Mr. JOHNSON. I would take the liberty as interim Chair to call Mr. Gonzalez, Mr. Little, and Mr. Kurle forward, if you would please join the panel. I don't have any additional questions for the existing members of this panel.

I wonder, Mr. Gonzalez, if you could share with us the background of the development of the original act and your work on the proposed amendments and how did we arrive where we are today.

Mr. GONZALEZ. I would be happy to do so, Mr. Chairman.

First I would like to state for the record that I am personally appointed to both the Mni Wiconi Act and the amendments under consideration today in H.R. 3954, because I had the honor and privilege of drafting the portions of the Mni Wiconi Act that related to the Oglala Sioux Tribe when I served as tribal attorney from 1978 to 1988.

I also had the honor and privilege of drafting the amendments since I am presently serving as a legal consultant to the Oglala Sioux Rural Water Supply System and have served in that capacity since 1991.

I have also served as a legal consultant to the Rosebud Sioux Tribe, and I worked closely with all project sponsors in drafting the amendments.

In response to your questions, Mr. Chairman, I believe that the enactment of the Mni Wiconi Act in 1988 was a result of two distinct cultures and societies coming together to find a solution to a common problem: the lack of good drinking water.

Both cultures and societies, one Indian and the other non-Indian, came to the realization that, if they formed a coalition and worked together, they could jointly eliminate the hardships imposed upon the respective peoples because of the lack of good water to cook with, bathe with and wash their clothes with, and they could jointly eliminate the water-borne diseases that have caused so much sickness and death over the years to their respective peoples.

The coalition, Mr. Chairman, is unique in the history of South Dakota. When former Governor Mickelson and the Sioux Tribes were talking about reconciliation between Indians and non-Indians, the Oglala Sioux Tribe and West River and Lyman-Jones systems

were already engaged in the policy of reconciliation in the implementation of the Mni Wiconi Act.

The policy of reconciliation came into existence when the Oglala Sioux Tribe realized it had a Federal interest necessary to justify congressional intervention and funding of the Mni Wiconi Project but lacked the political clout to get the bill introduced and passed in Congress.

And when the West River and Lyman-Jones Rural Water System realized they had the political clout the Indians lacked but they did not have the Federal interest necessary to establish the funds needed to establish the proposed systems, the combination of these two items, Mr. Chairman—the Federal interest and the political clout—was a magic formula needed by the coalition to get the Mni Wiconi Act passed in 1988, and the coalition accomplished this amazing feat in just two years by working together.

After the Mni Wiconi Act was enacted, the coalition found it difficult to implement its provisions as indicated in previous testimony here today. At times, the relationship between the Indian and non-Indian participants was very strained, due in part to the suspicion and distrust they had for one another, a legacy of a century and a half of wars, broken treaties and promises, and the theft of Sioux land, resources and water rights, and the suppression of the Sioux culture in society. But over time, because of a willingness on the part of the leadership to sit down and talk and resolve differences in a professional, honorable manner, the coalition participants have learned to mutually respect one another and to treat each other as human beings.

The success of the Mni Wiconi Project to date can also be attributed to the willingness on the part of the coalition's leadership to put the best interests of the representative peoples over their own personal biases and interests. As a result, the coalition has been able to complete all the preconstruction requirements contained in the Mni Wiconi Act within the agreed-upon time limits; namely, the final engineering report, the NEPA requirements, and the water conservation plans. And the Oglala Sioux Tribe assumed the lead role in completing these requirements by mutual consent of all project sponsors.

By seeing pipe laid in the ground, the Oglala people are starting to regain faith in the Federal Government. But we appear here before you today because the final engineering report prepared for Congress reveals that the level of funding authorized by the Mni Wiconi Act is insufficient. It will not meet the full needs of the Oglala Sioux Tribe or the two non-Indian water systems. The amendments will correct this and will also authorize the Lower Brule Rosebud Sioux Tribes to be included in the Mni Wiconi Act and to enjoy its benefits.

In addition, Mr. Chairman, I would also like to point out to this honorable committee that the Oglala Sioux Tribe is particularly interested in seeing the amendments under consideration today passed because the tribe views the passage and implementation of both the Mni Wiconi Act and the amendments as partial fulfillment of the Government's treaty obligations and trust responsibility to the tribe.

For example, in the act of February 28, 1877, Congress confiscated a portion of the Sioux Tribe's 1888 treaty reservation and the Sioux hunting rights outside the reservation. The 1877 Act provided in article 5, however, that in consideration for the land and hunting rights confiscated, the United States would provide all aid necessary for the civilization of the Sioux Indians, among other things.

In article 8, the act further provided that each individual Sioux Indian would be protected in his rights of person, property and life.

The Oglala Sioux Tribe does not view the Mni Wiconi Act and the amendments as government largesse. It views these benefits as part of the quid pro quo for the lands, minerals, natural resources and hunting rights confiscated by the Government in 1877, part of the consideration promised in that act for the billions of dollars of property confiscated.

This aid for civilization is a legal entitlement that is long overdue and will enable the Oglala Sioux Tribe to adequately address the water and public health needs of its people, build economic infrastructure on the Pine Ridge Reservation, to enable the tribe to eventually receive a higher degree of economic self-sufficiency, and enable the tribe to exist on this planet as a distinct culture and sovereign people in the twenty-first century and beyond.

I would like to thank you, Mr. Chairman, and other members of this committee, particularly Congressman Miller, for scheduling this hearing and allowing me to testify on behalf of the Oglala Sioux Tribe.

Mr. JOHNSON. Thank you, Mr. Gonzalez.

Mr. Kurle, I wonder if you have any insights about this bill, the amendments. I would be particularly interested since there is a question of cost share relative to the non-Indian components, what the consequences would be if we were not able to expand Mni Wiconi to the expanded non-Indian portion of the project.

STATEMENT OF MIKE KURLE

Mr. KURLE. Congressman Johnson, others have testified today in regard to the vital need for the cost share for the non-Indian portion, mainly West River and Lyman-Jones. A lot of the testimony has dealt with plans and specifications. However, as you recall, last October we had a ground breaking which you participated in at Wall, which we called the Crayton Project. Since that time, that project is near completion. In fact, members are receiving water at this very moment. From that, we have actual construction design, and we know at this point in time, better than plans, we know reality, that at Crayton there is a mile and one-half of distribution pipe for every meter.

We talked about sparsity of population. I think that proves it. Wednesday we let a bid on what is known as the Elvin Project, which is north of Phillip. The preliminary design of that will show two and a half miles of distribution for every meter.

Vice Chairman Cordes stated that the minimum charge is \$43 per month. That does not buy you one drop of water, a level water rate of \$2.50 per thousand gallon. The Bureau has done some studies in this area, one for the Mni Wiconi Project, one for the Lewis

and Clark Project in eastern South Dakota, and the farm-home 1 percent rule.

In all these cases, it was revealed that West River/Lyman-Jones water rates are in excess of the estimated ability to pay.

With approval of H.R. 3954 and with the approval of funding support given by the State of South Dakota, we believe that West River and Lyman-Jones will have the ability to expand along with the Indian portions of this project. However, that must be done with the cost share as established in the bill.

Thank you.

[Prepared statement of Mr. Kurle follows:]

TESTIMONY BY MIKE KURLE
WEST RIVER & LYMAN-JONES
RURAL WATER SYSTEMS

HR 3954
MNI WICONI ACT AMENDMENTS OF
1994

HOUSE NATURAL RESOURCES
COMMITTEE

May 24, 1994

HR 3954
WEST RIVER AND LYMAN-JONES
RURAL WATER SYSTEMS
TESTIMONY BY MIKE KURLE
MAY 24, 1994

Chairman and Members of the Committee:

My name is Mike Kurle, and I am Manager of the West River and Lyman-Jones Rural Water Systems. These two systems are located in the northeast part of the project area will provide service to 2,061 rural locations and 13 towns. The main delivery system facilities, which will deliver water to not only West River and Lyman-Jones, but the Oglala, Rosebud and Lower Brule Systems are primarily constructed in our service area. The nations travelling public traverses 160 miles of Interstate Highway 90 running east-west through our combined service areas.

Everybody drinks water. Unfortunately, most of the public do not concern themselves with where the water comes from and what it takes to make it safe. Everyone is affected by poor quality water if they are required to use it.

The attached table tells you something about where the water in our project area comes from and its quality. All of the public water supply wells in the West River and Lyman-Jones service areas are over a 1,000 feet deep. Most of them are over 2,000 feet and several are in excess of 3,000 feet. You not only have to drive a long way to find water in western South Dakota, you have to drill a long way to find water in western South Dakota.

The water from those wells does not meet Safe Drinking Water Act Standards. You will note by the chart that most of the water supplies exceed the Standards for total dissolved solids, sodium and sulfate. They not only exceed those values, they exceed them by a multiple of 3 or 4. Some sources also exceed the Standard for fluoride and radium. All of these elements are very difficult and expensive to remove. When this water is treated, to remove the elements that I have mentioned, the waste stream exceeds standards for discharge to public waters. In the case of radium it is a low level hazardous waste. As you can see, this water is not only not fit to drink, but also impractical to treat.

The display pictures of pipeline samples demonstrates the affect that this water has on plumbing and water transmission pipelines. The top picture is a sample of PVC pipe that was installed at a private well north of Hayes in the West River RWS area. That pipe is plugged with calcium sulfate, or gypsum. It was plugged after being in service for less than two years. At a well depth of over 2000 feet, this water is under high pressure, at a natural

temperature of 120° and is saturated with dissolved minerals. The precipitation of gypsum results when the pressure is reduced and the water cools. The second picture is a sample of encrusted pipe from a municipal system in the project.

The non-Indian users of the Mni Wiconi System are willing to pay what they can reasonably afford. The established water rates in the West River and Lyman-Jones Systems are a system minimum charge of \$43.00 per meter per month, and a water delivery charge of \$2.50 per 1,000 gallons. The Bureau of Reclamation, in their April 1993 analysis for the Mni Wiconi Project, concluded that the net ability to pay averaged 85¢ per 1,000 gallons in the West River and Lyman-Jones service areas, and that the average family could pay \$22.11 per month.

In the Bureau's analysis of the Lewis and Clark Project² they determined ability to pay on the basis of a household water bill per \$1000 of income. They found that average household water bills ranged from \$0.74 to \$1.59 per \$1,000 of household income; and that high water bills ranged from \$1.28 to \$3.62 per \$1,000 of household income. Using mid-range values and applying that to the Annual Median Household Income³ for the Counties in the West River and Lyman-Jones areas, the following monthly water rates would be determined:

<u>County</u>	<u>1990 MHI</u>	<u>Average Rate</u> <u>Per \$1,000 Income</u>	<u>High Rate</u> <u>Per \$1,000 Income</u>
Haakon	\$21,166	\$24.66	\$51.86
Jackson	17,276	20.13	42.33
Jones	21,202	24.70	51.94
Lyman	21,993	25.62	53.88
Mellette	14,539	16.94	35.62
Pennington	19,221 ⁴	22.39	47.09
Stanley	22,321	26.00	54.69

Another measure of ability to pay is used by FmHA and is often referred to as the 1% rule. The application of the rule is that the water and sewer bill should not exceed 1% of the MHI. Projects become eligible for grants from FmHA when the loan debt service exceeds that amount. A listing of the 1% rule amounts for the Counties and Cities in the West River and Lyman-Jones project areas and the resulting budgeted water rates is shown on an attached

²Lewis And Clark Rural Water System, Analysis Of The Ability And Willingness To Pay For A Missouri River Regional Water Supply, U.S. Bureau of Reclamation, September 1992, Revised October 1993.

³Final Statement, State of South Dakota Community Development Block Grant Program, January 1994.

⁴Only a small rural portion of Pennington County is in the project area and therefore the average MHI for Jackson & Haakon Counties was used in lieu of the county-wide MHI of \$25,340.

table. Also shown are the percentages of low and moderate income populations for those same areas. Please note that the percent of low and moderate income people in this area is significant..

With the approval of HR 3954 and with the funding support given by the State of South Dakota, the average community household water bill will be \$27.16 and the average rural member's water bill will be \$106.33. This is significantly higher than what is typical for the region and therefore very likely approaches the limit of the ability to pay for the average household in the project area. However, this is what we anticipated when the bill was authorized and this is what we are willing to pay.

The Lyman-Jones Rural Water System serves areas that are common with the Rosebud and Lower Brule Systems. The Indian people in these areas did not participate in Lyman-Jones's initial development and in the sign-up following authorization. The most likely reason for that was that they were unable to participate because the projected water rates were beyond their means.

All of the project sponsors work together with the Bureau of Reclamation in completing the Final Engineering Report. That report reflects many improvements over the authorized project. We worked hard and long to develop practical alternatives where there were opportunities to do so. A very significant cost savings was achieved in the development of groundwater sources on the Indian Reservations. We were also able to develop a limited groundwater source in the West River System. The Missouri River source, as proposed in the amendments, provide water to meet the basic domestic needs of everyone and is supplemented on the Indian Reservations with the limited amount of water available there.

Water conservation was also a significant part of the Final Engineering Report effort. The design capacity reflects water conservation efforts wherein the design capacity provided is a reduction from present use after water conservation measures have been implemented. Additionally, the West River and Lyman-Jones Systems have elected not to use declining block water rates as an incentive for water conservation.

The amendments proposed in 3954 do not provide a significant increase in delivery system capacity for the West River and Lyman-Jones Systems. The 1988 Planning Report, on which the project was authorized, provided a design delivery capacity of 3,920 gallons per minute. The 1993 Final Engineering Report finds a need for 4,044 gallons per minute to West River and Lyman-Jones, a net increase of 3.2%. The total system capacity increased significantly with the addition of Rosebud, Lower Brule, and the reassessment of OST needs. If cost is figured on the basis of percentage of design capacity, the actual main delivery system federal cost to provide service to West River & Lyman-Jones has decreased from about \$30 million in the authorized project to \$35 million in the amended project.

This project is very important for the health of our people and the economic stability of the region. Your support is very much appreciated.

MNI WICONI PROJECT AREA WATER QUALITY

Location	Depth feet	TDS mg/l	Sodium mg/l	Calcium mg/l	Chloride mg/l	Sulfate mg/l	Iron mg/l	Manganese mg/l	Fluoride mg/l
Pennington Co.									
Wall	3,188	682	254	3	13	213	0.15	0.56	2.10
Quinn	3,030	774	363	2	11	306	0.03	0.01	3.95
Haakon Co.									
Philip-Well	4,010	1,205	18	218	21	628	0.56	0.02	<1.74
Philip-Lake		1,747	66	275	28	1,058	0.31	0.15	1.74
Midland	3,400	1,413	23	262	38	723	0.15	0.01	2.37
Jackson Co.									
Kadoka	2,667	1,791	523	42	81	935	3.10	0.17	0.00
Belvidere	2,480	1,916	676	7	80	920	0.17	0.05	1.28
Interior	40	837	254	41	25	198	0.01	0.02	0.37
Wamblee	200	356	103	12	5	3	<0.02	<0.02	4.11
Potato Creek	200	622	177	43	11	26	<0.02	<0.02	1.86
Stanley Co.									
Hayes	2,000	4,727	1865	11	25	5	0.70	3.24	2.00
Ft. Pierre	60	894	153	81	25	350	0.70	3.24	1.72
Jones Co.									
Draper	2,120	1,890	699	10	220	362	0.58	0.04	0.96
Murdo Lake		1,715	242	159	51	919	1.60	0.06	0.98
Lyman Co.									
Vivian	1,690	1,793	700	8	592	10	0.15	0.01	1.75
Presho	1,466	1,427	236	158	168	733	1.49	0.05	2.32
Kennebec-Lake Byre		364	37	54	11	127	0.54	0.04	0.54
Kennebec-Well	1,320	1,740	138	282	101	984	1.68	0.13	2.52
Reliance	800	1,987	119	362	95	1,216	0.91	0.22	2.64
Shannon Co.									
Kyle	176	430	77.9	58	8	22	<0.02	0.03	0.30
Manderson	204	443	62.3	62	6	73	<0.02	0.15	0.15
Porcupine	204	334	46.9	40	5	8	<0.02	<0.02	0.65
Bennett Co.									
Allen	180	264	6.5	47	4	3	<0.02	<0.02	0.31
Lake Osage		433	57.5	50	38	164	0.31	0.02	0.50
SDWA Secondary Standards		500		250	250	250	0.30	0.05	2.00

NOTE: VALUE EXCEEDS SDWA SECONDARY STANDARDS

ABILITY TO PAY WEST RIVER & LYMAN-JONES PROJECT AREA

Location	% Poverty Income	% Low & Moderate Income	Median Household Income	1% Rule	Current Sewer Rate	FmHA Water Budget	WR/LJ Rural Rate	WR/LJ City Rate
Haakon County	13.60	38.27	\$21,166	\$17.64		\$17.64	\$106.33	\$27.16
Midland	11.70	32.94	\$17,708	\$14.76	\$5.00	\$9.76		\$27.16
Philip	14.90	41.45	\$19,760	\$16.47	\$10.00	\$6.47		\$27.16
Jackson County	38.80	56.30	\$17,246	\$14.37		\$14.37	\$106.33	
Belvidere	26.30	44.44	\$16,250	\$13.54	\$0.00	\$13.54		\$27.16
Kadoka	16.20	32.38	\$20,804	\$17.34	\$4.21	\$13.13		\$27.16
Jones County	15.10	39.84	\$21,202	\$17.67		\$17.67	\$106.33	
Draper	21.10	37.70	\$22,292	\$18.58	\$0.00	\$18.58		\$27.16
Murdo	10.30	35.62	\$20,800	\$17.33	\$4.66	\$12.67		\$27.16
Lyman County	24.70	38.15	\$21,993	\$18.33		\$18.33	\$106.33	
Kennebec	3.30	24.71	\$21,750	\$18.13	\$5.00	\$13.13		\$27.16
Presho	12.20	27.97	\$21,635	\$18.03	\$6.50	\$11.53		\$27.16
Reliance	29.80	55.11	\$16,875	\$14.06	\$4.00	\$10.06		\$27.16
Vivian				\$0.00	\$0.00	\$0.00		\$27.16
Melette County	41.30	60.97	\$14,539	\$12.12		\$12.12	\$106.33	
White River	26.80	50.00	\$18,304	\$15.25	\$4.00	\$11.25		\$27.16
Pennington County	12.90	37.34	\$25,340	\$21.12		\$21.12	\$106.33	
Quinn	35.40	63.10	\$20,114	\$16.76	\$0.00	\$16.76		\$27.16
Wall	9.20	31.45	\$25,347	\$21.12	\$4.00	\$17.12		\$27.16
Stanley County	12.40	36.24	\$22,321	\$18.60		\$18.60	\$106.33	

Notes:

1. Income data is from South Dakota Governors Office of Economic Development
2. FmHA 1% Rule: Water & sewer costs should not exceed 1% of Median Household Income

Mr. JOHNSON. Thank you, Mr. Kurle.

And, Mr. Little, I know that Commissioner Beard and I and Senator Daschle appreciated your hospitality. We were out at Pine Ridge some weeks ago. In your demonstration to us of some of the circumstances that some of your people are living with, I was particularly interested in the organization that you have created, where individuals, most of whom speak Lakota, have been going around explaining Mni Wiconi to many, particularly of our elderly and traditional people in Pine Ridge, and allaying some of the fears and concern that understandably can occur.

I wonder if you could tell us a little bit about the work that you have done and the importance of this project on Pine Ridge.

Mr. LITTLE. Thank you, Mr. Chairman.

I believe this Mni Wiconi Project is probably one of the most important acts passed for the Oglala Sioux Tribe in this century. Since the Pine Ridge Indian Reservation was created in 1889, there have been many Indian families on the reservation without good drinking water. These families endure the hardships as a result of having to haul water in buckets and cream cans on a daily basis.

I am acquainted with these hardships because my family is one of the families that currently does not have good drinking water. I served as a tribal councilman from 1986 to 1989. In this capacity I hauled water for approximately 147 families on a daily basis with my fellow councilman, Mr. Al Dray, many times at our own expense. This is why I support the project 100 percent.

One of my goals and dreams and realities was to make this project become reality to the Oglala Sioux tribal memberships, where they would no longer have to endure the hardships they are faced with today of hauling water.

The Mni Wiconi Project will allow our Indian people to enjoy the luxury of turning on the water faucet to drink, turning on the water to shower, for the first time in our history on the reservation.

The amendments under consideration today are important for two reasons. First, they will allow all the existing systems the opportunity to fulfill their water needs and allow the Lower Brule and Rosebud Sioux Reservations to benefit from the Mni Wiconi Project.

Second, the Mni Wiconi will build an infrastructure and bring many needed jobs to the three reservations involved. This is why we urge Congress to pass these important amendments.

I would like to thank Congressman Johnson, Chairman Miller, Dan Beard, the Bureau of Reclamation, and the regional local level. Thank you.

Mr. JOHNSON. Thank you, Mr. Little, for your long-standing leadership on this issue. The home that Senator Daschle and Commissioner Beard and I visited, along with others, was one on the Pine Ridge Reservation, and unfortunately it was all too typical of many homes there. An elderly woman, speaking only Lakota, lived there with nine children, small children, in a home with no electricity or water.

Periodically the tribe would bring a water truck by and put some water in some garbage pails out in front of her house. That was the only water. And even with the development of Mni Wiconi, the water will be taken to a tap outside of her house, and she will have

that, which she and her entire family will regard as a wonderful luxury. But still, I think, indicative of the kind of poverty and the kind of desperation that exists in too many places across our Indian reservations.

And I think it was a very compelling visit that we had, Mr. Little. And I appreciate that.

I don't have any further questions for the panel, other than to simply again express my thanks for the grassroots leadership that we have had from Indian and non-Indian alike in South Dakota. The reason we have Mni Wiconi, the reason we have reached this point, is not because of Congress, but because of the grassroots leadership we have had at home, people working together in a very long-standing, uphill battle in many ways, but very successfully.

And so I am very grateful for the kind of leadership we have had all across the Mni Wiconi region. I am going to work with Chairman Miller and Commissioner Beard and the State of South Dakota to do our very best to secure this authorization expansion, not to mention continue the appropriations battle for the funding that we need to move ahead on.

So with that, I want to just thank the members of the panel, and we will move on, then, to our next panel dealing with the Belle Fourche Project. Thank you.

Mr. JOHNSON. I would like to call forward and welcome Mr. Duane Odle, President, Board of Directors, Belle Fourche Irrigation District, Newell, South Dakota. He is accompanied by Mr. James Winterton, Project Manager, Belle Fourche Irrigation District.

Welcome to the hearing. I appreciate you coming out here, and the work you have done in working with us to bring this legislation to this point. Your full statement is received for the record. You may choose to summarize or however you care to proceed from there. We will begin with any statement, Mr. Odle, that you may have.

STATEMENT OF DUANE ODLE, PRESIDENT, BOARD OF DIRECTORS, BELLE FOURCHE IRRIGATION DISTRICT, ACCOMPANIED BY JAMES WINTERTON, PROJECT MANAGER, BELLE FOURCHE IRRIGATION DISTRICT

Mr. ODLE. Mr. Chairman and members of the committee, my name is Duane Odle. I am president of the Belle Fourche Irrigation District.

These comments represent the official position of the irrigation district as established by its board of directors. We are seeking your support of the amendments addressed in House Bill No. 4439 to take care of the critical items listed in the proposed amendments.

The district is comprised of approximately 350 individuals who have an interest in irrigating land for maximum crop production. We farm in a semi-arid area with average precipitation being 11 inches during the growing season. The district lies north and east of the Black Hills in Butte and Meade Counties in South Dakota and spans a 30-mile length over an area which includes the towns of Newell, Vetal, Nisland, Fruitdale and Belle Fourche. The area serviced by the district is 57,180 acres of irrigable land.

The Belle Fourche Project provides a feed base for a three-state area encompassing 10,000 square miles for feeding thousands of sheep and cattle. This involves cattle worth \$110 million and sheep worth over \$14 million.

The Belle Fourche Irrigation Project is one of the oldest reclamation projects, if not the oldest, in the planning stage. The original plans for the project are denoted as No. 1. Investigations for the development of the project began in 1903, following the passage of the Reclamation Act of 1902. The project was authorized for construction in 1904, and actual construction began in 1905.

It was constructed between 1904 and 1915 using horses and shovels. The first irrigation water was delivered to 12,000 acres of project lands in 1908 via a temporary canal through what is now the Belle Fourche reservoir. By 1912, there were 66,000 acres of irrigable lands on the project. Originally, it was envisioned that 89,000 acres would eventually be irrigated, but due to water availability and the types of lands which could be serviced, the lands irrigated have been reduced to a constant 57,180 acres since 1955.

The two major irrigation structures of the Belle Fourche Project consist of the diversion dam and the Belle Fourche dam, originally known as Orman Dam. The remainder of the facilities consist of 94 miles of main canals, 450 miles of laterals, and 225 miles of open drains, and 7 miles of pipe drain.

The rehabilitation project was authorized in 1983 to restore the reliability of the system, to conserve water by reducing losses, and to increase the operational efficiency and safety of the project. The project needed a face lift and modernization.

We saw the need for additional funds in 1990 and have been pursuing them ever since. We have greatly appreciated the help the Bureau of Reclamation has given us in studying the need for the additional funding and want to express a sincere thank you to Commissioner Dan Beard for listening to us, visiting with us on our own turf, and providing his support for the critical needs that are a must for the irrigation district.

The State of South Dakota is showing their support with the monies that will be provided from them. A \$4 million cost share is expected from the State of South Dakota. There is a saying: "It is unwise to pay too much, but it is worse to pay too little. When you pay too much, you lose a little money—that is all. When you pay too little, you sometimes lose everything."

The district is in this type of situation. The original rehabilitation plans were based on items that needed work back in 1978. Most of this work has been addressed, but during the rehabilitation construction period some critical items showed up that we now have to address in order to maintain uninterrupted water service to the irrigation district's lands.

Since 1978, time has taken its toll. Whitewood Creek siphon, the outlets of the Belle Fourche reservoir dam, the bridges over the irrigation district facilities, and the Anderson draw siphon were not considered for rehabilitation under the existing authorized funding level.

The district would like to replace the funding that was taken away from the South Canal lining work to do the Anderson draw

siphon. To help our water conservation efforts, this high-loss canal needs to be lined. The district cannot afford to do this alone.

Whitewood Creek was worked on by the district about the time the bureau was doing its studies in the late 1970s, and it did not appear to be a problem area at that time. But since the early 1980s, the downstream erosion in Whitewood Creek has moved to the siphon, and now the siphon acts like a dam on the Whitewood Creek. If we lose Whitewood Creek siphon, we would not be able to serve water to 10,000 acres of some of the best land on the project.

Originally, the siphon was under the base of the Whitewood Creek channel. Whitewood Creek is a Superfund site due to Homestake Mining Company's tailings which still lay in the bottom of Whitewoods creek. If the siphon is lost, it would create an environmental hazard due to the erosion that would be caused upstream on Whitewood Creek. Old tailings would be washed into the Belle Fourche River, then into the Cheyenne River and end up in Lake Oahe on the Missouri River.

The U.S. Environmental Protection Agency has a definite interest in the protection of the siphon. In a letter dated March 29, 1993, from Michael McCeney, EPA Superfund project manager on the Whitewood Creek Superfund site, he supports the Bureau of Reclamation proposal to construct a drop structure and he states:

Based on my review of the stability reports, preventing failure of the Whitewood siphon is extremely important. Of most concern to me is that, according to the Stability Reports, failure of the siphon would most likely lead to massive erosion of arsenic laden sediments both upstream and downstream of the siphon. On this portion of the Whitewood Creek, the alluvium (underlying the creek) and stream banks are comprised almost entirely of mill tailings from historic upstream gold mining operations. Massive erosion of those materials would likely have extremely adverse effects on aquatic life within the Creek system. In addition, according to the Stability Reports, such erosion would also compromise the structural integrity of other existing structures located on the Creek.

The outlets on the Belle Fourche Reservoir Dam need replacement. After the Bureau of Reclamation installed new measurement structures below the outlet aprons of the dam, it was determined that the old concrete in the sidewalls and aprons of the outlets has lost its strength over the many years of use.

The increased velocities and energy developed on the old outlets are in excess of what the old concrete can withstand. We have made what repairs we could to the outlets this spring in an attempt to make them usable again, hopefully for a couple of years, but we are concerned that the old concrete in the outlets will continue to degrade rapidly. The outlets need to be replaced.

Bridges on the project did not come into the picture until about ten years ago. The district entered into litigation with Butte County concerning the repair of bridges crossing the irrigation district facilities. The South Dakota Supreme Court decided that the liability of the bridges rests with the counties, but the cost of doing the maintenance repair work is the responsibility of the district.

This is a cost that was never contemplated before the advent of the court decision. This decision has and will cause a severe hardship to the water users as we have many bridges and crossings on our system. Once fixed or replaced, in most cases with box culverts, these structures should be good for many years, and with a good

O&M plan, bridge maintenance can be handled on a timely basis as the need arises.

The Johnson Lateral located off the inlet canal serves a large number of acres. The Johnson Lateral should be reworked and lined from one end to the other. The lateral is 12 miles long and runs through a number of gravel-based soils along the way. It is the highest loss and least efficient lateral on the project.

The large amount of seepage requires at least four miles of lining and several long loops cut off and replaced with small siphons. Any water saved on the Johnson Lateral will reduce the need for water from Keyhole Reservoir in Wyoming. Wyoming is presently in the process of trying to establish a minimum pool for the Keyhole Reservoir. Water saved on the Johnson Lateral will reduce the need from Keyhole Reservoir and lessen adverse impacts to the Belle Fourche Irrigation District. Wyoming has been concerned about the drawdown of Keyhole Reservoir because of recreational and fish interests.

The funding for the district conducting support on the contracts for rehabilitation work has been a very beneficial program for the Bureau of Reclamation as well as the irrigation district. The construction experience gained by the irrigation district's O&M crews and the savings in contract costs to the Bureau of Reclamation on contracts by having the district do the detail work has been substantial. The district will be able to do much improved O&M in the future with this experience gained.

It is now 85 years that the Belle Fourche Project has operated and provided a living for farmers, livestock growers and economic activities for the towns, county, State, and the United States. Instead of 5-10 ranches, we have 350 families making a living on the project itself, not counting the families that depend on the business activity that it creates. The project has returned many times the dollars that have been spent on the original construction of the project.

The dollar produced on the land multiplies many times. It is a renewable resource that creates dollars for the community and the country. This is a development for the next 75-100 years.

Originally it was asked that a total rehabilitation be done on the Belle Fourche Project. The monies were authorized with the thinking that it would be enough to do all the planned work.

Mr. Chairman and members of the committee, the Bureau of Reclamation did a good job on the estimates of the work that was planned and the Bureau did what was planned and then some. Here, however, we have to address the final critical needs that were not determined to be a problem in the original plan. We are confident that the estimates are as good as they have been in the past on the Belle Fourche Project by the Bureau of Reclamation.

Along with the rehabilitation for the delivery of irrigation water, you are finding that the U.S. Fish and Wildlife Service and the South Dakota Department of Game, Fish and Parks are very pleased with the mitigation and environmental enhancement that has been and will be provided with the rehabilitation work.

We believe that by working together and understanding the needs of the environment, we can provide environmental improvements that will provide future generations not only opportunities

for work, but opportunities for a quality of life and a well-sustained, nurtured environment. We will continue in our efforts and cooperation for providing this to the best of our ability.

The Belle Fourche Project needs your support in getting the funding as outlined in H.R. 4439. We thank you for holding this hearing and appreciate the opportunity to make these comments to you.

This concludes my testimony. I especially would like to thank you, Congressman Johnson, for introducing the legislation. I will be happy to answer any questions you may have, or if I can't, Jim will help me.

[Prepared statement of Mr. Odle follows:]

Prepared Statement by
Duane Odle
President, Belle Fourche Irrigation District

to the

Subcommittee on Oversight and Investigations
of the Natural Resources Committee

Room 1324, Longworth
9:45 a.m.
May 24, 1994

Duane Odle, President
Belle Fourche Irrigation District
May 24, 1994

Mr. Chairman and members of the Committee, my name is Duane Odle, and I am the President of the Belle Fourche Irrigation District. These comments represent the official position of the Irrigation District as established by its Board of Directors. We are seeking your support of the amendments addressed in House Bill No. 4439 to take care of critical items listed in the proposed amendments.

The District is comprised of approximately 350 individuals who have an interest in irrigating land for maximum crop production. We farm in a semiarid area with average precipitation being 11 inches during the growing season. The District lies north and east of the Black Hills in Butte and Meade Counties in South Dakota and spans a 30 mile length over an area which includes the towns of Newell, Vale, Nisland, Fruitdale and Belle Fourche. The area serviced by the District is 57,180 acres of irrigable land.

The Belle Fourche Project provides a feed base for a three state area encompassing 10,000 square miles for feeding thousands of cattle and sheep. This involves cattle worth \$110,000,000 and sheep worth over \$14,000,000.

The Belle Fourche Irrigation Project is one of the oldest Reclamation Projects, if not the oldest in the planning stage. The original plans for the project are denoted as No. 1. Investigations for the development of the project began in 1903 following the passage of the Reclamation Act of 1902. The project was authorized for construction in 1904 and actual construction began in 1905. It was constructed between 1904 and 1915 using horses and shovels. The first irrigation water was delivered to 12,000 acres of project lands in 1908 via a temporary canal through what is now the Belle Fourche Reservoir. By 1912, there were 66,000 acres of irrigable lands on the project. Originally it was envisioned that 89,000 acres would eventually be irrigated, but due to water availability and the types of lands which could be serviced, the lands irrigated have been reduced to a constant 57,180 acres since 1955.

The two major irrigation structures of the Belle Fourche Project consist of the Diversion Dam and the Belle Fourche Dam (originally known as Orman Dam). The remainder of the facilities consist of 94 miles of main canals, 450 miles of laterals, 225 miles of open drains, and 7 miles of pipe drain.

The rehabilitation project was authorized in 1983 to restore the reliability of the system, to conserve water by reducing losses, and to increase the operational efficiency and safety of the project. The project needed a face lift and modernization.

We saw the need for additional funds in 1990 and have been pursuing them ever since. We have greatly appreciated the help the Bureau of Reclamation has given us in studying the need for the additional funding and want to express a sincere thank you to

Duane Odle, President
 Belle Fourche Irrigation District
 May 24, 1994

Commissioner Dan Beard for listening to us, visiting with us on our own turf, and providing his support for the critical needs that are a must for the Irrigation District. The State of South Dakota is showing their support with the monies that will be provided from them. A \$4,000,000 cost share is expected from the State of South Dakota.

There is a saying: "It's unwise to pay too much, but it's worse to pay too little. When you pay too much, you lose a little money ... that is all. When you pay too little, you sometimes lose everything."

The district is in this type of situation. The original rehabilitation plans were based on items that needed work back in 1978 and most of this work has been addressed, but during the rehabilitation construction period some critical items showed up that we now have to address in order to maintain uninterrupted water service to the irrigation district's lands.

Since 1978, time has taken its toll. Whitewood Creek siphon, the outlets of the Belle Fourche Reservoir Dam, the bridges over irrigation district facilities, and the Anderson Draw siphon (which will be done because of its critical need by taking monies away from the originally planned work on the South Canal) were not considered for rehabilitation under the existing authorized funding level. The district would like to replace the funding that was taken away from the south canal lining work to do the Anderson Draw siphon. To help our water conservation efforts, this high-loss canal needs to be lined. The district cannot afford to do this alone.

Whitewood Creek siphon was worked on by the District about the time the Bureau was doing its studies in the late 1970's and it did not appear to be a problem area at that time. But since the early 1980's the downstream erosion in Whitewood Creek has moved to the siphon and now the siphon acts like a dam on Whitewood Creek. If we lose Whitewood Creek siphon, we would not be able to serve water to 10,000 acres of some of the best land on the project.

Originally the siphon was under the base of the Whitewood Creek channel. Whitewood Creek is a Superfund Site due to Homestake Mining Company's tailings which still lay in the bottom of Whitewood Creek. If the siphon is lost, it would create an environmental hazard due to the erosion that would be caused upstream on Whitewood Creek. Old tailings would be washed into the Belle Fourche River, then into the Cheyenne River and end up in Lake Oahe on the Missouri River. The US Environmental Protection Agency has a definite interest in the protection of the siphon. In a letter dated March 29, 1993, from Michael McCeney, EPA Superfund Project Manager on the Whitewood Creek Superfund Site, he supports the Bureau of Reclamation proposal to construct a drop structure and he states:

Duane Odie, President
Belle Fourche Irrigation District
May 24, 1994

"Based on my review of the Stability Reports, preventing failure of the Whitewood siphon is extremely important. Of most concern to me is that, according to the Stability Reports, failure of the siphon would most likely lead to massive erosion of arsenic laden sediments both upstream and downstream of the siphon. On this portion of Whitewood Creek, the alluvium (underlying the creek) and stream banks are comprised almost entirely of mill tailings from historic upstream gold mining operations. Massive erosion of these materials would likely have extremely adverse effects on aquatic life within the Creek system. In addition, according to the Stability Reports, such erosion would also compromise the structural integrity of other existing structures located on the Creek."

The outlets on the Belle Fourche Reservoir Dam need replacement. After the Bureau of Reclamation installed new measurement structures below the outlet aprons of the dam, it was determined that the old concrete in the sidewalls and aprons of the outlets has lost its strength over the many years of use. The increased velocities and energy developed on the old outlets are in excess of what the old concrete can withstand. We have made what repairs we could to the outlets this spring in an attempt to make them usable again, hopefully for a couple of years, but we are concerned that the old concrete in the outlets will continue to degrade rapidly. The outlets need to be replaced.

Bridges on the project did not come into the picture until about ten years ago. The District entered into litigation with Butte County concerning the repair of bridges crossing irrigation district facilities. The SD Supreme Court decided that the liability of the bridges rests with the county, but the cost of doing the maintenance and repair work is the responsibility of the District. This is a cost that was never contemplated before the advent of the Court Decision. This decision has and will cause a severe hardship to the water users as we have many bridges and crossings on our system. Once fixed or replaced, in most cases with box culverts, these structures should be good for many years and with a good O&M plan, bridge maintenance can be handled on a timely basis as the need arises.

The Johnson Lateral located off the Inlet Canal serves a large number of acres. The Johnson Lateral should be reworked and lined from one end to the other. The lateral is 12 miles long and runs through a number of gravelly areas along the way. It is the highest loss and least efficient lateral on the project. The large amount of seepage requires at least four miles of lining and several long loops cutoff and replaced with small siphons. Any water saved on the Johnson Lateral will

Duane Odle, President
Belle Fourche Irrigation District
May 24, 1994

reduce the need for water from Keyhole Reservoir in Wyoming. Wyoming is presently in the process of trying to establish a minimum pool for Keyhole Reservoir. Water saved on the Johnson Lateral will reduce the need from Keyhole Reservoir and lessen adverse impacts to the Belle Fourche Irrigation District. Wyoming has been very concerned about the drawdown of Keyhole Reservoir because of the recreational and fish interests.

The funding for the District conducting support on the contracts for Rehabilitation Work has been a very beneficial program for the Bureau of Reclamation as well as the Irrigation District. The construction experience gained by the irrigation district's O&M crews and the savings in contract costs to the Bureau of Reclamation on contracts by having the district do the detail work has been substantial. The District will be able to do much improved O&M in the future with this experience gained.

It is now 85 years that the Belle Fourche Project has operated and provided a living for farmers, livestock growers and economic activity for the towns, county, state, and the United States. Instead of five to ten ranches, we have 350 families making a living on the project itself, not counting the families that depend on the business activity that it creates. The project has returned many times the dollars that have been spent on the original construction of the project. The dollar produced on the land multiplies many times. It is a renewable resource the creates dollars for the country. This is an investment for the next 75 to 100 years.

Originally it was asked that a total rehabilitation be done on the Belle Fourche Project. The monies were authorized with the thinking that it would be enough to do all the planned work. Mr. Chairman and members of the committee, the Bureau of Reclamation did a good job on the estimates of the work that was planned and the Bureau did what was planned and then some. Here, however, we have to address the final critical needs that were not determined to be a problem in the original plan. We are confident that the estimates are good as they have been in the past on the Belle Fourche Project by the Bureau of Reclamation.

Along with rehabilitation for the delivery of irrigation water, you will find that the US Fish and Wildlife Service and the South Dakota Department of Game, Fish, and Parks are very pleased with the mitigation and environmental enhancement that has been and will be provided with the rehabilitation work. We believe that by working together and understanding the needs of the environment, we can provide environmental improvements that will provide future generations not only opportunities for work, but opportunities for a quality life and a well sustained, nurtured environment. We will continue in our efforts and cooperation for providing this to the best of our ability.

Duane Odle, President
Belle Fourche Irrigation District
May 24, 1994

The Belle Fourche Project needs your support in getting the funding as outlined in H.R. 4439. We thank you for holding these hearings and appreciate the opportunity to make these comments to you.

Mr. JOHNSON. Thank you.

I am particularly distressed to find that the Johnson Lateral is the least efficient part of the project. That needs prompt work.

I wonder if you and Jim would care to comment. I know in our preliminary discussions about the need for a higher authorization for Belle Fourche, that frankly we had in mind more than \$14.5 million, that we thought it would take more, and after some discussions with BOR, we have arrived at this number.

It is my understanding that is what you have agreed to go forward with. We are talking about \$10.5 million of Federal and \$4 million of State match.

Are you comfortable we have done what we can do with that level of funding?

Mr. ODLE. With the \$10.5 million and the \$4 million to State, we will get the major things done that are really serious, that the project would not have a chance to do, the irrigation district would not be able to pay for.

The other things, I think, over a period of time we could probably work many of them into the O&M budget and do small amounts at a time.

Mr. JOHNSON. Does it appear to you that the members of the district are going to be pressed about as hard as they can be pressed in terms of their financial contribution to make this project work?

Mr. ODLE. Definitely.

Mr. JOHNSON. And you currently have the Bureau of Reclamation personnel that you would need to finish this project on hand at Belle Fourche?

Mr. ODLE. Yes. They are presently there.

Mr. JOHNSON. And if we do not pass this legislation this year, we could still ultimately, of course, try to secure expanded authorization language, but I assume it would be much more costly to have to bring personnel and bring the whole effort back to the Belle Fourche area. It would be a very inefficient, disruptive way of going about finishing this project; is that fair to say?

Mr. ODLE. I would say so, especially the fact that probably some of them would be into other types of work at other places, and we would get new people in. These people are familiar with the project. They have been there; they know exactly where everything is, how it operates. They have families and homes there, and it would be very disruptive to them and very costly. I am sure a lot of this \$10 million would go for a lot more of it.

Mr. JOHNSON. Commissioner Beard in discussion with Belle Fourche indicated four points he wanted to stress. One was the cap of \$10.5 million, another was repayment over 25 years. He talked about the need for conservation for the water with retaining the water savings for recreation and enhanced stream flow purposes.

He also talked about measurement. Do you have any comments or any concerns about the points made by Commissioner Beard in his testimony on those issues?

Mr. ODLE. Some of these, the point on the savings of the water, the conservation plan, will have to be worked out with Wyoming, with the Bureau. And we talked a little bit for the first time about this last night. And I don't think there is going to be anything we can't work out.

Mr. JOHNSON. It appears to you there could be a major conservation wildlife environmental enhancement as a result of this project.

Mr. ODLE. Yes, I would say so. We have already done an awful lot in that direction. The people, as I testified, they are very happy with what we have done. I think that with the increased funds there will probably be more of it. I know there will be.

Mr. JOHNSON. It looks like they are all for it now.

Mr. ODLE. Yes.

Mr. JOHNSON. It is good to say that.

Jim, do you have any comments in conclusion here?

Mr. WINTERTON. The only comment I would have is that the Keyhole is not full yet, but it is in better shape than it has been for many years. It sat up in 500,000 acre-feet of water, and last year we were starting out with maybe—they got down to 20,000 acre-feet. Especially the work on the Johnson Lateral will definitely help us as far as I think reducing our need from Keyhole, which would thereby help Wyoming out too.

I have no other comments, other than I think Mr. Odle has said most of the points that we wanted to make. I guess if there are any other questions, I sure would be happy to answer them.

Mr. JOHNSON. The Belle Fourche Reservoir and the Keyhole are the two primary reservoirs, the two reservoirs?

Mr. WINTERTON. Yes, the Keyhole Reservoir is located upstream of the Belle Fourche Reservoir. We have a diverse dam which diverts water out of the river into the Orman Dam. We would be working with the State as far as what might be required for stream flows. It is a jurisdiction debate. That is something to be worked out between the Bureau and the State. I think we would probably be involved in the hearing process on that.

Mr. JOHNSON. Your working relationship with the Wyoming authorities has been good?

Mr. WINTERTON. It has been very good.

Mr. JOHNSON. Well, this again, as with Mni Wiconi, is not only important legislation, common-sense legislation, but it is something that we need to move very quickly on. They both have a very serious time concern, timing concern. And so I again appreciate your proactive effort to bring this to the attention of the congressional delegation and to get us moving on this and to lay out the plans for it.

I will be working with the Minority side as well as with Chairman Miller to see what we can do relative to markup and the timely consideration of this legislation as quickly as possible, since we do have to get it to our friends over in the other body and to the President's desk and do it this year.

So thank you again, and we will continue working very closely with you.

Mr. ODLE. Thank you.

Mr. JOHNSON. There being nothing else before the subcommittee this morning, this subcommittee is adjourned.

[Whereupon, at 11:30 a.m., the subcommittee was adjourned.]

APPENDIX

MAY 24, 1994

ADDITIONAL MATERIAL SUBMITTED FOR THE HEARING RECORD

OPENING STATEMENT
of
THE HONORABLE JAY DICKEY
Fourth District - Arkansas
in the
Oversight and Investigations Subcommittee
Regarding
South Dakota Bureau of Reclamation Water Projects

May 24, 1994

Mr. Chairman, thank you for holding this hearing today on these two water projects in South Dakota, introduced by our colleague, Representative Tim Johnson.

Although I note from the briefing information there is a proposed significant increase in authorization to expand the Mni Wiconi Rural Water Supply Project, I do understand this project will deliver much needed safe drinking water to two Indian Tribes and two non-Indian rural water service areas. These areas, I am told, are very economically depressed and in serious need of drinking water supply.

I look forward to reviewing the testimony for this project, as well as the proposed increase in the authorization for the Bell Fourche Irrigation Project.

...



STATE OF SOUTH DAKOTA

WALTER D. MILLER
GOVERNOR

May 17, 1994

EXECUTIVE OFFICE
STATE CAPITOL
PIERRE, SOUTH DAKOTA
57501-5070
(605) 773-3212

The Honorable George Miller
House Natural Resources Committee
2228 Rayburn House Office Building
Washington, D.C. 20515-0507

Dear Chairman Miller:

Due to a scheduling conflict, I am unable to attend the hearings regarding the Belle Fourche Irrigation Rehabilitation Project and Mni Wiconi Rural Water Supply Project on May 24, 1994. The state of South Dakota strongly supports both of these projects, and I regret I cannot appear before the committee to testify personally regarding the state's support.

The Belle Fourche Irrigation Project provides stability to the Belle Fourche community. The state of South Dakota believes there are several considerations which merit raising the ceiling of the project. Key among them are the safety factors and water conservation measures which will be addressed with the increased funding. Without the rehabilitation of the Whitewood Siphon, dam outlets, and canal bridges, the long-term stability of the project will be threatened. We realize budgets are tight; however, we are committed to seeking \$4 million in state funding to cost-share these needed safety and conservation measures.

South Dakota supports the passage of H.R. 3954, the Mni Wiconi Act Amendments of 1994. The expanded Mni Wiconi Project will provide high quality Missouri River water to three Indian reservations and nine counties in western South Dakota. The water supply in this area is of very low quality and limited quantity, if there is water available at all. Regional distribution systems are the most practical means to ensure all South Dakotans have safe drinking water at a price they can afford. The state of South Dakota continues to support the negotiated agreement of a 35% nonfederal cost-share on the non-Indian components.

The Honorable George Miller
May 17, 1994
Page 2

On behalf of all South Dakotans, thank you for your consideration of these needed amendments. We appreciate the support you and this committee have given to South Dakota water development.

Sincerely,



WALTER D. MILLER

WDM:nrl



STATE OF WYOMING
OFFICE OF THE GOVERNOR
CHEYENNE 82002

MIKE SULLIVAN
GOVERNOR

May 24, 1994

The Honorable George Miller
House Committee on Natural Resources
1324 Longworth House Office Building
Washington, D.C. 20515-6201

Dear Chairman Miller:

It is my understanding that the Oversight and Investigations Subcommittee held a hearing on May 24, 1994 on H.R. 4439, and I would urge the subcommittee's favorable action on this bill. This bill seeks to increase the total cost ceiling of the present authorization for the rehabilitation work being completed on the Belle Fourche Irrigation Project in western South Dakota.

The additional rehabilitation work to be completed under this increased authorization includes work on the Johnson Lateral. Storage water utilized on the portion of the irrigation district served by the Johnson Lateral is held in Keyhole Reservoir, which is a Bureau of Reclamation facility located on the Belle Fourche River in northeastern Wyoming. Keyhole Reservoir and State Park are heavily utilized by recreationists from throughout the area, and the water savings gained through the proposed rehabilitation work should help to increase the water level in Keyhole Reservoir.

The favorable passage of H.R. 4439 would be helpful to the Belle Fourche Irrigation District, as well as to the recreationists at Keyhole Reservoir in Wyoming.

With best regards, I am

Very truly yours,

A handwritten signature in dark ink, appearing to read "Mike Sullivan".

Mike Sullivan

cc: Rep. Craig Thomas
Gordon W. Fassett, State Engineer
Jim Winterton, Belle Fourche Irrigation District

LABORERS' INTERNATIONAL UNION OF NORTH AMERICA



ARTHUR A. COIA
General President

JAMES J. NORWOOD
General
Secretary-Treasurer

MASON M. WARREN
1st Vice President

R. P. SINDEL
2nd Vice President

JOHN S. RIFE, C.
3rd Vice President

NORRIS HANSEN
4th Vice President

SAMUEL J. CAVASO
5th Vice President

ENRICO MANCINI, L.L.
6th Vice President

EDUARD BARSTIS
7th Vice President

JACK WILKINSON
8th Vice President

GEORGE B. GUDGER
9th Vice President

MIKE QUAYLOR, JR.
10th Vice President

CARL E. RODRIGUEZ
Assistant to the
General President

ROBERT J. GOSNOLTON
General Counsel

INNOVATION

June 20, 1994

Rep. George Miller, Chairman
Committee on Natural Resources
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Miller: *George*

At your suggestion, we are submitting for the record a statement by our General President Arthur A. Coia on H.R. 3954 "Mni Wiconi Act Amendments of 1994" along with suggested language for a training amendment. The language of the amendment has the approval of Dan Beard of the Bureau of Reclamation, with the proviso that we gain the support of the tribes. This we will attempt to do and will report back to the Committee. We will also be in touch with Rep. Johnson.

Thank you in advance for your help and assistance.

Cordially,

Dorold J. Kaniewski
Dorold J. Kaniewski
Assistant Legislative
Director

**Statement of Arthur A. Coia, General President
Laborers' International Union of North America
on H.R. 3954 "Mni Wiconi Act Amendments of 1994"**

The Laborers' International Union of North America (LIUNA) is made up of 650,000 members who work primarily in the construction industry. We also represent large numbers of service workers in a variety of occupations including significant numbers in the health care and government service contract industries. In the public sector we represent over 40,000 postal workers through our Mailhandlers' Division as well as workers in diverse occupations throughout state and local governments.

The Laborers' International Union has long had a relationship with Native American workers through its construction and pipeline projects in the American Southwest. Beginning in 1976 and continuing into the present, the Union has organized and represented professional and support health care personnel in 19 Service Units representing 3,000 workers, predominantly Native American, in the Indian Health Service.

LIUNA has been a leader in developing training programs designed to help our members be the most skilled and safest workers in the country. Our programs are run as a joint labor management effort through the Laborers'-Associated General Contractors Training and Education Fund. Our employers are our partners in this effort through their association, the Associated General Contractors. The programs developed by the Laborers'-AGC include a wide range of skill training and life training. We train in basic construction as well as literacy. We offer highly technical training in hazardous waste remediation and asbestos and lead abatement. Our courses cover a wide range of construction skills while recognizing the special needs of different groups of workers.

Many of our programs have been funded in part by grants from the Departments of Energy and Defense and by the EPA. Our toxic remediation and health and safety programs are recommended for adoption by NIOSH and other government regulators. We have provided training to the employees of numerous Federal and State agencies. These programs have been recognized for their excellence by the academic community including the American Council on Education.

As you can see, we have established training programs of which we are immensely proud. We are also very proud of the special relationship we have developed over the years with various Native American Nations.

We have worked with the Navajo Nation, training workers in environmental remediation, basic construction skills including pipeline placement and asbestos abatement. We have trained members of the Assiniboine and Sioux Nations in environmental remediation. Of the 150 Navajo workers trained in asbestos abatement, 105 are now working for the Navajo Housing Authority.

These experiences made it clear to us that there were opportunities for Native American concerns to develop a capability to bid remediation and other construction projects on their own land and in the private sector as well. The tribes we had been working with came to us seeking assistance in connecting Native American contractors with larger union contractors to gain assistance in bidding, developing bid information, bonding and other kinds of expertise. The Union helped establish joint ventures that were majority owned by Native American individuals or tribal enterprises.

From this activity we became convinced that the Union, construction contractors, Native American enterprises and environmental contractors could benefit from a national forum to share information and expertise in the areas of training, joint venturing, successful contracting and economic development.

The first meeting of the Native American Advisory Committee was held in late March in Las Vegas, Nevada. There were seventeen representatives from twelve different Native American Nations, three union contractors in the environmental remediation field and two Native American contractors. I chaired the meeting and other officers and staff of the Union were there to lend their expertise.

The participants were thoroughly pleased with this initial meeting. They were also impressed with the Union's ability to bring together the number of Native American tribes with whom it has an ongoing relationship.

After the meeting, we assisted one of the Native American contractors in joint venturing on a five million dollar job in Alaska. Hazardous waste remediation classes have been given at both the Hoopa Land in Northern California and the Assiniboine Land around Fort Peck, Montana.

As a result of the establishment of the Native American Advisory Committee, the Greater Sioux Nation has asked us to join with them in sponsoring another meeting of the Committee, to expand the activity of the Committee and to share our expertise with more officials of the Greater Sioux Nation in North and South Dakota. This meeting is scheduled for August at Pine Ridge, South Dakota.

The major expansion of the Mni Wiconi project as proposed in H.R. 3954 will not only provide a reliable and adequate water supply but represents a unique employment opportunity for members of the Oglala Sioux, Rosebud Sioux and Lower Brule Sioux Nations as well.

We are proposing the Committee adopt an amendment to H.R. 3954 that would authorize a comprehensive construction and environmental remediation training program for the training of tribal members who will be, or are likely to be, employed on the projects authorized in the bill. (See proposed amendment, attached.)

The Bureau of Reclamation has indicated its support for the amendment provided that we secure the agreement of the tribes. We propose to do this and will report back to the Committee.

We believe that our record of expertise and our commitment to better the lives of all working people, including Native Americans, puts us in a unique position to offer to the tribes an opportunity to work together to develop a skilled workforce and bring the resources of the Union to bear in developing jobs and the skills needed to perform them.

**AMENDMENT TO H.R. 3954
"Mni Wiconi Act Amendments of 1994"**

Section _____

There are hereby authorized to be appropriated such sums as may be necessary for the establishment and operation of a comprehensive construction and environmental remediation worker training programs for the training of tribal members who will be, or who are likely to be, employed on the projects referred to in this Act.

In carrying out the responsibility for developing comprehensive worker training programs, the Secretary may enter into agreements with non-profit organizations, including joint labor-management training trust funds with demonstrated experience in the design and delivery of basic construction skills and environmental remediation training, including specifically training of Native American construction workers such as construction craft laborers.

SUBMITTED BY DUANE ODLE

H.R. 4439

**Belle Fourche
Project**

**Additional Funding
Request**

1994



103D CONGRESS
2D SESSION

H. R. 4439

IN THE HOUSE OF REPRESENTATIVES

Mr. JOHNSON of South Dakota introduced the following bill; which was referred to the Committee on _____

A BILL

To expand the scope of the Belle Fourche irrigation project,
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. EXPANSION OF BELLE FOURCHE IRRIGATION
4 PROJECT.

5 (a) AUTHORIZATION OF ADDITIONAL ACTIVITIES.—
6 The Act entitled “An Act to authorize rehabilitation of
7 the Belle Fourche irrigation project, and for other pur-
8 poses.” (Public Law 98-157, 97 Stat. 989) is amended
9 in the first section—

2

1 (1) by striking "That the general" and insert-
2 ing in lieu thereof, so as to appear immediately after
3 and below the enacting clause, the following:

4 "SECTION 1. (a) The general plan for"; and

5 (2) by adding at the end the following:

6 "(b)(1) In addition to the activities authorized under
7 subsection (a), the general plan for the Belle Fourche
8 project is modified to include the following:

9 "(A) Rehabilitation of the following major
10 water control structures:

11 "(i) The Whitewood Siphon.

12 "(ii) 2 Belle Fourche dam outlets.

13 "(B) Lining at South Canal and rehabilitation
14 of Johnson Lateral for water conservation.

15 "(C) Replacement or rehabilitation of deterio-
16 rated canal bridges.

17 "(D) Provision of minor lateral rehabilitation
18 and contract support work by the Belle Fourche irri-
19 gation district.

20 "(E) Conduct of a detailed study of project-
21 wide water use management and implementation of
22 improved management practices for the purpose of
23 achieving optimal conservation of water supplies.

24 "(2) The Federal share of the cost of activities under
25 this subsection may not exceed \$10,500,000. The State

3

1 share of those costs may not exceed \$4,000,000, and shall
2 be paid concurrently with Federal expenditures for activi-
3 ties under this subsection.”

4 (b) EXTENSION OF REPAYMENT PERIOD.—Section
5 2(b) of that Act is amended by striking “the year in which
6 such amendatory repayment contract is executed” and in-
7 serting “July 1, 1995”.

8 (c) APPLICABLE RATES OF CHARGE AND ASSESS-
9 ABLE ACREAGE.—Section 2(c) of that Act is amended to
10 read as follows:

11 “(c)(1) Before July 1, 1995, the rates of charge to
12 land class in the unit shall continue to be as established
13 in the November 29, 1949, repayment contract with the
14 district, as subsequently amended and supplemented. On
15 and after July 1, 1995, such rates of charge and assess-
16 able acreage shall, subject to subsection (d), be in accord-
17 ance with the amortization capacity and classification of
18 unit lands as then determined by the Secretary.

19 “(2) After final completion of the rehabilitation and
20 betterment program authorized by this Act, and at inter-
21 vals agreed to by the Secretary and the Belle Fourche irri-
22 gation district, the rates of charge and assessable acreage
23 may be amended as determined necessary by the Sec-
24 retary.”

4

1 (d) AUTHORIZATION OF APPROPRIATION.—Section 7
2 of that Act is amended—

3 (1) by inserting “(a)” after “SEC. 7.”; and

4 (2) by adding at the end the following:

5 “(b) In addition to amounts authorized under sub-
6 section (a), for activities under section 1(b) there are au-
7 thorized to be appropriated \$10,500,000, plus or minus
8 such amounts (if any) as may be justified by reason of
9 ordinary fluctuations in construction cost indexes applica-
10 ble to types of construction conducted under that sec-
11 tion.”.

12 (e) AMENDMENT OF CONTRACT.—The Secretary of
13 the Interior and the Belle Fourche irrigation district shall
14 amend the contract numbered 5-07-60-WR170 to reflect
15 the amendments made by this section.

Prepared Statement by
Duane Odle, President
Belle Fourche Irrigation District
May, 1994

Duane Odle, President
 Belle Fourche Irrigation District
 May, 1994

Page 1

My name is Duane Odle, and I am the President of the Belle Fourche Irrigation District. These comments represent the official position of the Irrigation District as established by its Board of Directors.

We are seeking your support of the amendments addressed in House Bill No. 4439 to take care of critical items listed in the proposed amendments.

The District is comprised of approximately 350 individuals who have an interest in irrigating land for maximum crop production. We farm in a semiarid area with average precipitation being 11 inches during the growing season. The District lies north and east of the Black Hills in Butte and Meade Counties in South Dakota and spans a 30 mile length over an area which includes the towns of Newell, Vale, Nisland, Fruitdale and Belle Fourche. The area serviced by the District is 57,180 acres of irrigable land.

The Belle Fourche Project provides a feed base for a three state area encompassing 10,000 square miles for feeding thousands of cattle and sheep. This involves cattle worth \$110,000,000 and sheep worth over \$14,000,000.

The Belle Fourche Irrigation Project is one of the oldest Reclamation Projects, if not the oldest in the planning stage. The original plans for the project are denoted as No. 1. Investigations for the development of the project began in 1903 following the passage of the Reclamation Act of 1902. The project was authorized for construction in 1904 and actual construction began in 1905. It was constructed between 1904 and 1915 using horses and shovels. The first irrigation water was delivered to 12,000 acres of project lands in 1908 via a temporary canal through what is now the Belle Fourche Reservoir. By 1912, there were 66,000 acres of irrigable lands on the project. Originally it was envisioned that 89,000 acres would eventually be irrigated, but due to water availability and the types of lands which could be serviced, the lands irrigated have been reduced to a constant 57,180 acres since 1955.

The two major irrigation structures of the Belle Fourche Project consist of the Diversion Dam and the Belle Fourche Dam (originally known as Orman Dam). The remainder of the facilities consist of 94 miles of main canals, 450 miles of laterals, 225 miles of open drains, and 7 miles of pipe drain.

The rehabilitation project was authorized in 1983 to restore the reliability of the system, to conserve water by reducing losses, and to increase the operational efficiency and safety of the project. The project needed a face lift and modernization.

We saw the need for additional funds in 1990 and have been pursuing them ever since. We have greatly appreciated the help the Bureau of Reclamation has given us in studying the need for the additional funding and want to express a sincere thank you to Commissioner Dan Beard for listening to us, visiting with us on our own turf, and providing his support for the critical needs

Duane Odle, President
 Belle Fourche Irrigation District
 May, 1994

Page 2

that are a must for the Irrigation District. The State of South Dakota is showing their support with the monies that will be provided from them. A \$4,000,000 cost share is expected from the State of South Dakota.

There is a saying: "It's unwise to pay too much, but it's worse to pay too little. When you pay too much, you lose a little money ... that is all. When you pay too little, you sometimes lose everything."

The district is in this type of situation. The original rehabilitation plans were based on items that needed work back in 1978 and most of this work has been addressed, but during the rehabilitation construction period some critical items showed up that we now have to address in order to maintain uninterrupted water service to the irrigation district's lands.

Since 1978, time has taken its toll. Whitewood Creek siphon, the outlets of the Belle Fourche Reservoir Dam, the bridges over irrigation district facilities, and the Anderson Draw siphon (which will be done because of its critical need by taking monies away from the originally planned work on the South Canal) were not considered for rehabilitation under the existing authorized funding level. The district would like to replace the funding that was taken away from the south canal lining work to do the Anderson Draw siphon. To help our water conservation efforts, this high-loss canal needs to be lined. The district cannot afford to do this alone.

Whitewood Creek siphon was worked on by the District about the time the Bureau was doing its studies in the late 1970's and it did not appear to be a problem area at that time. But since the early 1980's the downstream erosion in Whitewood Creek has moved to the siphon and now the siphon acts like a dam on Whitewood Creek. If we lose Whitewood Creek siphon, we would not be able to serve water to 10,000 acres of some of the best land on the project.

Originally the siphon was under the base of the Whitewood Creek channel. Whitewood Creek is a Superfund Site due to Homestake Mining Company's tailings which still lay in the bottom of Whitewood Creek. If the siphon is lost, it would create an environmental hazard due to the erosion that would be caused upstream on Whitewood Creek. Old tailings would be washed into the Belle Fourche River, then into the Cheyenne River and end up in Lake Oahe on the Missouri River. The US Environmental Protection Agency has a definite interest in the protection of the siphon. In a letter dated March 29, 1993, from Michael McCeney, EPA Superfund Project Manager on the Whitewood Creek Superfund Site, he supports the Bureau of Reclamation proposal to construct a drop structure and he states:

"Based on my review of the Stability Reports, preventing failure of the Whitewood siphon is extremely important. Of most concern to me is that, according to the Stability Reports, failure of the siphon would most likely lead to

Duane Odle, President
 Belle Fourche Irrigation District
 May, 1994

Page 3

massive erosion of arsenic laden sediments both upstream and downstream of the siphon. On this portion of Whitewood Creek, the alluvium (underlying the creek) and stream banks are comprised almost entirely of mill tailings from historic upstream gold mining operations. Massive erosion of these materials would likely have extremely adverse effects on aquatic life within the Creek system. In addition, according to the Stability Reports, such erosion would also compromise the structural integrity of other existing structures located on the Creek."

The outlets on the Belle Fourche Reservoir Dam need replacement. After the Bureau of Reclamation installed new measurement structures below the outlet aprons of the dam, it was determined that the old concrete in the sidewalls and aprons of the outlets has lost its strength over the many years of use. The increased velocities and energy developed on the old outlets are in excess of what the old concrete can withstand. We have made what repairs we could to the outlets this spring in an attempt to make them usable again, hopefully for a couple of years, but we are concerned that the old concrete in the outlets will continue to degrade rapidly. The outlets need to be replaced.

Bridges on the project did not come into the picture until about ten years ago. The District entered into litigation with Butte County concerning the repair of bridges crossing irrigation district facilities. The SD Supreme Court decided that the liability of the bridges rests with the county, but the cost of doing the maintenance and repair work is the responsibility of the District. This is a cost that was never contemplated before the advent of the Court Decision. This decision has and will cause a severe hardship to the water users as we have many bridges and crossings on our system. Once fixed or replaced, in most cases with box culverts, these structures should be good for many years and with a good O&M plan, bridge maintenance can be handled on a timely basis as the need arises.

The Johnson Lateral located off the Inlet Canal serves a large number of acres. The Johnson Lateral should be reworked and lined from one end to the other. The lateral is 12 miles long and runs through a number of gravelly areas along the way. It is the highest loss and least efficient lateral on the project. The large amount of seepage requires at least four miles of lining and several long loops cutoff and replaced with small siphons. Any water saved on the Johnson Lateral will reduce the need for water from Keyhole Reservoir in Wyoming. Wyoming is presently in the process of trying to establish a minimum pool for Keyhole Reservoir. Water saved on the Johnson Lateral will reduce the need from Keyhole Reservoir and lessen adverse impacts to the Belle Fourche Irrigation District. Wyoming has been very concerned about the drawdown of Keyhole

Duane Odle, President
Belle Fourche Irrigation District
May, 1994

Page 4

Reservoir because of the recreational and fish interests.

The funding for the District conducting support on the contracts for Rehabilitation Work has been a very beneficial program for the Bureau of Reclamation as well as the Irrigation District. The construction experience gained by the irrigation district's O&M crews and the savings in contract costs to the Bureau of Reclamation on contracts by having the district do the detail work has been substantial. The District will be able to do much improved O&M in the future with this experience gained.

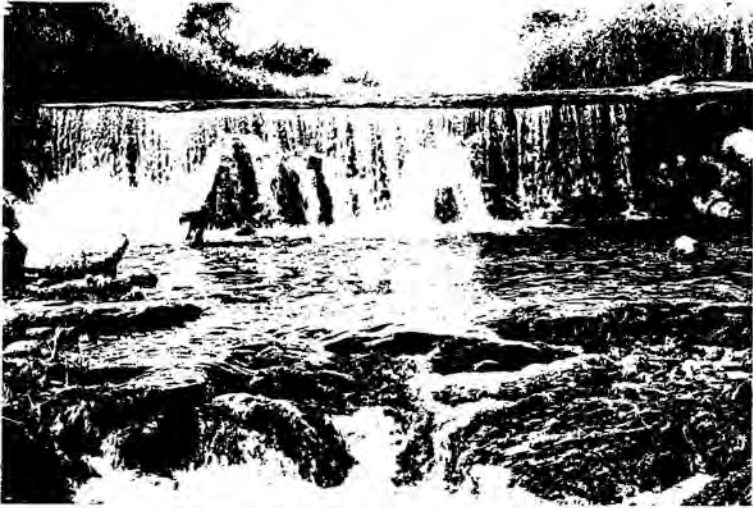
It is now 85 years that the Belle Fourche Project has operated and provided a living for farmers, livestock growers and economic activity for the towns, county, state, and the United States. Instead of five to ten ranches, we have 350 families making a living on the project itself, not counting the families that depend on the business activity that it creates. The project has returned many times the dollars that have been spent on the original construction of the project. The dollar produced on the land multiplies many times. It is a renewable resource the creates dollars for the country. This is an investment for the next 75 to 100 years.

Originally it was asked that a total rehabilitation be done on the Belle Fourche Project. The monies were authorized with the thinking the it would be enough to do all the planned work. The Bureau of Reclamation did a good job on the estimates of the work that was planned and the Bureau did what was planned and then some. Here, however, we have to address the final critical needs that were not determined to be a problem in the original plan. We are confident that the estimates are good as they have been in the past on the Belle Fourche Project by the Bureau of Reclamation .

Along with rehabilitation for the delivery of irrigation water, you will find that the US Fish and Wildlife Service and the South Dakota Department of Game, Fish, and Parks are very pleased with the mitigation and environmental enhancement that has been and will be provided with the rehabilitation work. We believe that working together and understanding the needs of the environment, we can provide environmental improvements the will provide future generations not only opportunities for work, but opportunities for a quality life and a well sustained, nurtured environment. We will continue in our efforts and cooperation for providing this to the best of our ability.

The Belle Fourche Project needs your support in getting the funding as outlined in H.R. 4439.

Pictures Showing
Examples of the Need for
Additional Funding



Whitewood Creek Siphon. Acting like dam on Whitewood Creek. If siphon goes out, water service to 10,000 acres would be lost. September, 1993 photo.



Whitewood Creek Siphon. Side view. September, 1993.



North Canal Outlet - Washed out hole in September, 1993 at end of irrigation season.
March, 1994 photo.



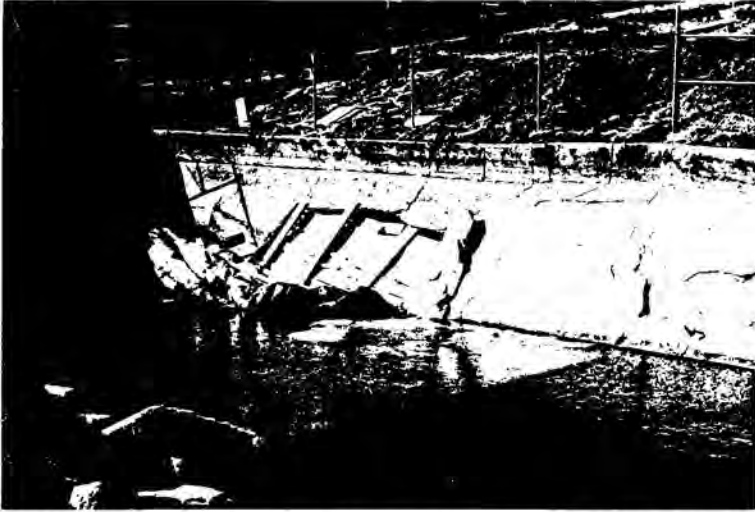
North Canal Outlet - Washed out hole in side of outlet structure.
Occurred in September, 1993 at end of irrigation season.
March, 1994 photo.



South Canal Outlet - Side walls damaged. Old concrete.
March, 1994 photo.



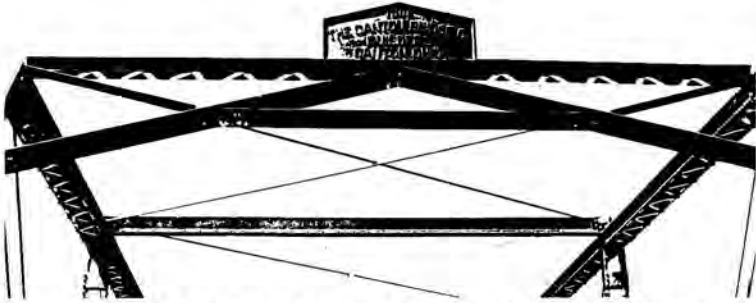
South Canal Outlet - Notice concrete in bad shape on side walls.
Needs replacement. Rebar showing through.
March, 1994 photo.



North Canal Outlet - Repairs by Belle Fourche Irrigation District Personnel, so water could be delivered in the 1994 season. Repairs will hold hopefully a couple of years. March, 1994 photo.



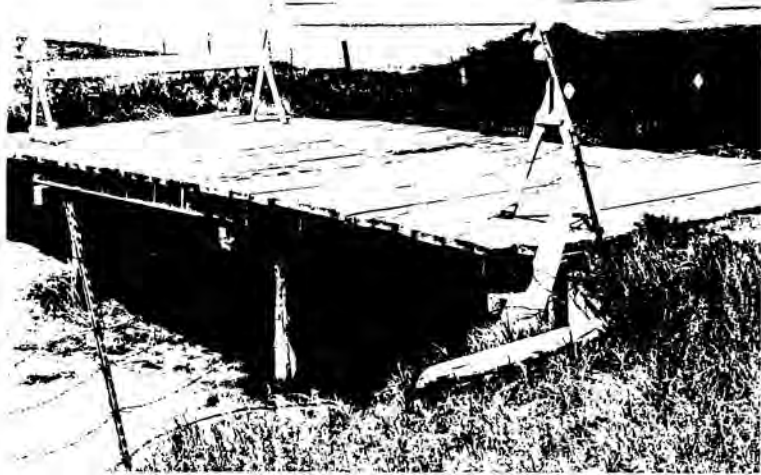
North Canal Outlet - Work completed by Belle Fourche Irrigation District Crews to fix wash out. This is considered a temporary measure. End of March, 1994 photo.



Bridge No. 5 - On Inlet Canal, Olson Bridge located NE4 Sec 33, T9N - R3E. Note age of bridge. Date shown is 1906.
5/18/93



Bridge No. 3 - On Inlet Canal, one of the Court Case Bridges. Located S4 Sec 29, T9N - R3E.
5/18/93.



Bridge No. 85 - One of bridges involved in Court Case - Ypparilla
Bridge located N. Bdry. Sec 12, T9N, R5E.
5/18/93



Bridge No. 88 - Bridge located on the N. Bdry. NE4 Sec. 9, T9N,
R5E.
5/18/93.



Johnson Lateral - Beginning of 12 mile Lateral - High loss lateral. Runs through gravelly soils. March, 1994 photo.



Johnson Lateral - Above Fruitdale, SD - High Loss Lateral. May 16, 1994

Belle Fourche Project
Priority and Cost Tabulation
Additional Funding Request

**ANALYSIS OF REQUEST FOR ADDITIONAL FUNDING
COST & PRIORITY SUMMARY
January, 1994**

Feature	Type of Work	Estimated Cost By BFPO
<u>FIRST PRIORITY</u>		
Whitewood Siphon	Siphon Rehab.	\$1,764,000
Dam Outlets	Outlet Works Rehab.	839,000
Bridges	Structure Replacements	6,000,000
South Canal Lining	Membrane Lining	966,000
South Canal Lining	Membrane Lining	603,000
Johnson Lateral	Lining and Pipe	3,150,000
Water Management Study	Water Management	<u>200,000</u>
TOTAL		\$13,522,000
<u>SECOND PRIORITY</u>		
Coyote Lateral	Pipe Installation	\$250,000
Horse Creek Lat.	Pipe Installation	427,000
Staiger Lateral	Pipe Installation	120,000
Main Canals	Reshaping	<u>200,000</u>
TOTAL		\$ 997,000
CUMULATIVE TOTAL		\$14,519,000
<u>THIRD PRIORITY</u>		
Townsite "C" Lat.	Pipe & Structures	\$2,201,000
Youngberg Lateral	Pipe & Structures	600,000
Young Lateral	Pipe & Structures	2,116,000 ¹
Arpan Lateral	Pipe & Structures	365,000 ²
Gregory Lateral	Pipe & Structures	693,000
LaPlasma Lateral	Pipe & Structures	726,000
Woods Lateral	Pipe & Structures	495,000
Meade Lateral	Pipe & Structures	623,000
Herman Lateral	Pipe & Structures	<u>247,000</u>
TOTAL		\$8,066,000
CUMULATIVE TOTAL		\$22,585,000

¹Belle Fourche Projects Office (BFPO) cost estimates include both contract and noncontract costs.

²Estimates for Young & Arpan Laterals are dependent on each other.

**ANALYSIS OF REQUEST FOR ADDITIONAL FUNDING
COST & PRIORITY SUMMARY
January, 1994**

Feature	Type of Work	Estimated Cost By BFFO
FOURTH PRIORITY		
Counter Lateral	Pipe Installation	91,000
Vik Lateral	Pipe Installation	108,000 ¹
Ness Lateral	Pipe Installation	188,000 ¹
Barber Lateral	Pipe Installation	19,000
Beresford Lateral	Pipe & Structures	2,184,000
Inlet Canal	Pipe & Structures	388,000
Vale Lateral	Pipe & Structures	488,000
Long Lateral	Pipe & Structures	186,00
Gillette Lateral	Pipe & Structures	355,000
Berry Lateral	Pipe & Structures	296,000
Townsite "A" Lat.	Pipe & Structures	767,000
Deadman Lateral	Pipe & Structures	472,000
Miller Butte	Pipe & Structures	1,009,000
Wilson Lateral	Pipe & Structures	652,000
Tarr Lateral	Pipe & Structures	440,000
Trude-Oliver Lat.	Pipe & Structures	445,000
IC 25.0 Lateral	Pipe & Structures	136,000
Harris Lateral	Pipe & Structures	332,000
Gomer Lateral	Pipe & Structures	137,000
Richards Lateral	Pipe & Structures	129,000
Gale Lateral	Pipe & Structures	45,000
Ash Lateral	Pipe & Structures	109,000
George Lateral	Pipe & Structures	83,000
Beckman Lateral	Pipe & Structures	191,000
IC 24.3 Lateral	Pipe & Structures	199,000
Holstein Lateral	Pipe & Structures	139,000
Deer Creek Lateral	Pipe & Structures	59,000
Lyman Lateral	Pipe & Structures	177,000
Boe Lateral	Pipe & Structures	75,000
TOTAL		\$9,899,000
GRAND TOTAL		\$32,484,000

¹Belle Fourche Projects Office (BFFO) Cost estimates include both contract and noncontract costs.

²Vik and Ness Lateral estimates are dependent on each other.

PRIORITY & COST TABULATION: SECTION E - PAGE 2

WRITTEN STATEMENT OF

FRANCIS WHITEBIRD

COMMISSIONER

SOUTH DAKOTA INDIAN AFFAIRS

ON H.R. 3954

MNI WICONI ACT AMENDMENTS OF 1994

AND H.R. 4439

BELLE FOURCHE IRRIGATION REHABILITATION AMENDMENTS OF 1994

SUBMITTED TO THE

OVERSIGHT AND INVESTIGATIONS SUBCOMMITTEE

NATURAL RESOURCES COMMITTEE

UNITED STATES HOUSE OF REPRESENTATIVES

MAY 24, 1994

Mr. Chairman, my name is Francis Whitebird. As Commissioner of Indian Affairs for the State of South Dakota, I am submitting written testimony in support of H.R. 3954, the Mni Wiconi Act Amendments of 1994.

In recent years, the State of South Dakota under the leadership of the late Governor George S. Mickelson and the South Dakota Indian Tribes have made a concerted effort to reconcile their differences and work together. On February 1, 1990, Governor Mickelson signed an executive proclamation proclaiming 1990, "A Year of Reconciliation in South Dakota, and called on our citizens, both Indian and non-Indian to look for every opportunity to lay aside our fears and mistrust, to build friendships, to join together and take part in shared cultural activities, to learn about one another, to have fun with one another, and to begin a process of mutual respect and understanding that will continue to grow into South Dakota's second hundred years." Governor Mickelson appointed a special council to oversee efforts for a special year of reconciliation between Indians and non-Indians.

The success of the reconciliation process was evident when on July, 10, 1991, Governor Mickelson extended the year of reconciliation to a century of reconciliation in an effort to continue the healing of old wounds and sharing of cultural values which were taking place between the Indian and non-Indian people of South Dakota. Governor George S. Mickelson is no longer here to pursue the reconciliation efforts initiated under his leadership. Nonetheless, under the leadership of Governor Walter D. Miller, the reconciliation process has continued to prosper and grow.

The Mni Wiconi Project is a prime example of what can be accomplished when everyone works together for a unified cause. This project is a reality because of the hard work and dedication put forth by the Indian and non-Indian entities involved in Mni Wiconi. It is the result of their cooperation and willingness to work together to accomplish a goal which will provide high quality drinking water to the people of this area regardless of their race.

I grew up on the Rosebud Indian Reservation and I can attest to the poor quality and lack of quantity of water in that area. Seventeen years ago, I was a member of the Rosebud Sioux Tribal Council. Even then the insufficient supply of quality water was a major concern for the Council. It was detrimental to the health and welfare of our people and the lack of water contributed to the poverty and economic depression of the Rosebud Reservation. After many years of hard work, a project has been formulated which will bring safe drinking water to the people of this area. Just as the State of South Dakota has been working toward reconciliation efforts, I request the federal government to remember their trust responsibilities and authorize the Mni Wiconi Act Amendments of 1994.

MNI WICONI

RURAL WATER SUPPLY PROJECT

West River Rural Water System, Inc. / Lyman-Jones Water Development Association, Inc.

P.O. Box 523 • Murdo, South Dakota 57559 • (605) 669-2931

June 1, 1994

Honorable George Miller, Chairman
Subcommittee on Oversight and Investigations
Committee on Natural Resources
1328 Longworth House Office Building
Washington, D.C. 20515

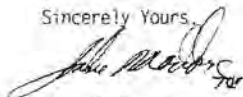
Dear Chairman Miller,

We thank you for expediting the committee hearing and providing us with the opportunity to testify in favor of HR 3954 on May 24, 1994. This is a much needed project for the people of South Dakota.

Testimony by Bureau of Reclamation Commissioner Beard has prompted us to respond to the Administration's recommendations on cost sharing for the non-Federal portions of the project. Please accept, and enter into the record, this supplemental testimony on behalf of the West River and Lyman-Jones Rural Water Systems.

We look forward to working with you on the successful passage of this bill.

Sincerely Yours,



Mike Kurie, Manager

cc: Commissioner Beard
Congressman Tim Johnson
Governor Walter D. Miller

HR 3954
WEST RIVER AND LYMAN-JONES RURAL WATER SYSTEMS
TESTIMONY BY KIRK CORDES AND MIKE KURLE
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
COMMITTEE ON NATURAL RESOURCES
May 24, 1994

SUPPLEMENTAL TESTIMONY IN RESPONSE TO TESTIMONY BY COMMISSIONER BEARD, BUREAU OF RECLAMATION

Department of Interior comments expressed in the Commissioner's testimony not only oppose any further assistance to the West River and Lyman-Jones (WR/LJ) Projects but also propose to eliminate previously authorized benefits to WR/LJ. We take exception to the comments on the basis that the Department of Interior analysis is unfairly critical of the WR/LJ Projects. This supplemental testimony supports our position and further justifies the original provisions of HR 3954.

The Commissioner's testimony correctly cites the findings of the Final Engineering Report (FER) stating that the expanded project service area and increased density has resulted in a 10 percent reduction of per capita costs. It should follow that WR/LJ not be penalized for this increased efficiency.

Interior has made an allocation of core system costs in its draft comments on the FER. In their analysis they assigned costs in proportion to design capacity. i.e., a system having 10 % of the design capacity was assigned 10 % of the cost. We point out that the Authorization (PL 100-516) provides that the OSTWSS facilities be oversized to meet the needs of the West River and Lyman-Jones Projects. The Congressional intent of the original authorization was specifically not to allocate core system costs. An alternative allocation would have been for Interior to assign incremental costs to WR/LJ on the premise that the Federal interest should pay the cost of initial construction and the non-Federal interest should pay the expansion cost. In that manner, if the non-Federal interest was unable to participate, the Federal interest budget would be sufficient to construct the project. Although WR/LJ does not support this concept, it does result in a significantly lower assignment of costs to WR/LJ.

Although the scope and capacity of the project has increased, the cost of core system facilities to serve WR/LJ has decreased. Therefore, the assignment of \$5,223,000 of core system cost to WR/LJ is inappropriate. This is shown on the attached table using the BOR cost analysis. The following points are noted:

1. WR/LJ is provided 66.3 % of the design capacity in the authorized project (PL 100-516), which, on a shared facilities cost allocation, represents \$36,404,549 of core system construction cost (indexed to 1992 prices).
2. WR/LJ is provided 43.5 % of the HR 3954 amended design capacity which represents \$36,083,394 of core system shared costs.
3. Core system facility costs in HR 3954 to serve the WR/LJ Projects represent a savings of \$321,155 over those proposed in PL 100-516.

Federal cost share in the increased distribution system costs and the core system O & M are critical to WR/LJ participation. Commissioner Beard, in response to a question, appropriately stated that there are no other water source alternatives for these people. The membership of WR/LJ, in approval of PL 100-516, agreed to pay water rates that exceed the Bureau's own estimates of their ability to pay. The State of South Dakota has offered the most generous loan package that it can afford. The Federal cost share provided in HR 3954 honors the agreements set in PL 100-516 and applies them to the project recommended by the Federally mandated FFR. The attached table of cost impacts shows that the Administration's recommendations would result in a 30 % increase (\$27.16 to \$35.26) in rates to municipal consumers and a 53 % increase (\$106.34 to \$162.55) to rural consumers.

The Administration's recommendation would also require an almost two-fold increase in non-Federal funding. The project sponsors have relied on the State of South Dakota to provide loan funds to meet this non-Federal cost share requirement. In order to make the loan burden affordable the State has agreed to provide loan funds at a subsidized interest rate of 3% with a repayment period of 40 years. It is questionable whether the State will provide the additional \$20 millions called for in the Administration's recommendations.

The proposed WR/LJ water rates are greatly in excess of rates paid by beneficiaries of similar Federal water projects. A recent news article¹ reported that water rates in the City of Phoenix were to increase 7.3 percent to cover the increased cost of CAP water. "The approved increase means the water portion of an average monthly single-family bill will jump 98 cents to \$14.43." The City of Phoenix has a annual median household income (\$29,291) that is 49% higher than of the West River/Lyman-Jones project area (\$19,674). This demonstrates that in some parts of the country, where they have higher population densities, it is resonable to require 100% non-Federal cost share for MR&I

¹WATERWEEK, Vol. 3, No. 11, May 23, 1994, page 2.

benefits. However, in South Dakota we do not have that same repayment capability.

The WR/LJ Rural Water Systems support the addition of Rosebud and Lower Brule. However, this should not be used as an opportunity to back out of the original commitments to WR/LJ. This would be contrary to the spirit of cooperation that has been developed between the Sponsors of the Mni Wiconi Project. For this reason and the reasons given above we respectfully request the Committee to approve the cost share provisions provided in HR 3954 and preserve the commitments made to WR/LJ in the original project authorization.

**MNI WICONI PROJECT
SUMMARY OF DESIGN CAPACITY AND
BOR ASSIGNED COSTS**

	1988 REPORT Authorized Plan Indexed to 1992		FER PLAN IV System to Meet Amended Needs	
	GPM	%	GPM	%
Core System Design Capacity				
Oglala Sioux Tribe	2000	33.8%	2587	27.8%
West River	1850	31.3%	2096	22.6%
Lyman-Jones	2070	35.0%	1940	20.9%
Rosebud		0.0%	2472	26.6%
Lower Brule		0.0%	198	2.1%
Total	5920	100.0%	9293	100.0%
Distribution System Cost				
Oglala Sioux Tribe	\$22,901,270		\$62,217,000	
West River	\$21,017,899		\$32,783,000	
Lyman-Jones	\$20,981,442		\$31,726,000	
Rosebud			\$47,200,000	
Lower Brule			\$6,232,000	
Total	\$64,900,612		\$180,158,000	
Core System Costs (Allocated In Proportion To Design Capacity)				
Oglala Sioux Tribe	\$18,573,750		\$23,128,777	
West River	\$17,180,718		\$18,739,047	
Lyman-Jones	\$19,223,831		\$17,344,347	
Rosebud	\$0		\$22,100,632	
Lower Brule	\$0		\$1,770,196	
Total	\$54,978,299		\$83,083,000	

**COST IMPACTS OF ADMINISTRATION RECOMMENDATION
WEST RIVER & LYMAN-JONES PROJECTS
MNI WICONI PROJECT**

	HR 3954 AMENDMENTS	ADMINISTRATION RECOMMENDATION
Distribution System Cost		
West River RWS	\$32,783,000	\$32,783,000
Lyman-Jones RWS	\$31,726,000	\$31,726,000
Assigned Core System Cost		
West River RWS		\$2,611,500
Lyman-Jones RWS		\$2,611,500
Total WR/LJ Cost	\$64,509,000	\$69,732,000
Federal Cost Share	\$41,930,850	\$27,166,750
Non-Federal Cost Share	\$22,578,150	\$42,565,250
Annual Debt Service		
Municipal	\$78,143	\$147,318
Rural	\$898,642	\$1,694,156
West River/Lyman-Jones Average Monthly Water Bill - Municipal Connection		
WR/LJ Debt Service	\$2.16	\$4.08
WR/LJ O&M	\$18.00	\$18.00
Municipal O&M	\$7.00	\$7.00
OSTWSS Assigned O&M		\$6.18
Total	\$27.16	\$35.26
% Increase		29.81%
West River/Lyman-Jones Average Monthly Water Bill - Rural Connection		
WR/LJ Debt Service	\$36.34	\$68.50
WR/LJ O&M	\$70.00	\$70.00
OSTWSS Assigned O&M		\$24.05
Total	\$106.34	\$162.55
% Increase		52.86%

ISBN 0-16-044676-7



90000

9 780160 446764