

105TH CONGRESS
1ST SESSION

H. R. 1688

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

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 1997

Mr. THUNE (for himself, Mr. MINGE, and Mr. LATHAM) introduced the following bill; which was referred to the Committee on Resources

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Lewis and Clark Rural
5 Water System Act of 1997”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) ENVIRONMENTAL ENHANCEMENT.—The
2 term “environmental enhancement” means the wet-
3 land and wildlife enhancement activities that are
4 carried out substantially in accordance with the envi-
5 ronmental enhancement component of the feasibility
6 study.

7 (2) ENVIRONMENTAL ENHANCEMENT COMPO-
8 NENT.—The term “environmental enhancement
9 component” means the component described in the
10 report entitled “Wetlands and Wildlife Enhancement
11 for the Lewis and Clark Rural Water System”,
12 dated April 1991, that is included in the feasibility
13 study.

14 (3) FEASIBILITY STUDY.—The term “feasibility
15 study” means the study entitled “Feasibility Level
16 Evaluation of a Missouri River Regional Water Sup-
17 ply for South Dakota, Iowa and Minnesota”, dated
18 September 1993, that includes a water conservation
19 plan, environmental report, and environmental en-
20 hancement component.

21 (4) MEMBER ENTITY.—The term “member en-
22 tity” means a rural water system or municipality
23 that signed a Letter of Commitment to participate
24 in the water supply system.

1 (5) PROJECT CONSTRUCTION BUDGET.—The
2 term “project construction budget” means the de-
3 scription of the total amount of funds needed for the
4 construction of the water supply system, as con-
5 tained in the feasibility study.

6 (6) PUMPING AND INCIDENTAL OPERATIONAL
7 REQUIREMENTS.—The term “pumping and inciden-
8 tal operational requirements” means all power re-
9 quirements that are incidental to the operation of in-
10 take facilities, pumping stations, water treatment fa-
11 cilities, reservoirs, and pipelines up to the point of
12 delivery of water by the water supply system to each
13 member entity that distributes water at retail to in-
14 dividual users.

15 (7) SECRETARY.—The term “Secretary” means
16 the Secretary of the Interior.

17 (8) WATER SUPPLY SYSTEM.—The term “water
18 supply system” means the Lewis and Clark Rural
19 Water System, Inc., a nonprofit corporation estab-
20 lished and operated substantially in accordance with
21 the feasibility study.

1 **SEC. 3. FEDERAL ASSISTANCE FOR THE WATER SUPPLY**
2 **SYSTEM.**

3 (a) IN GENERAL.—The Secretary shall make grants
4 to the water supply system for the planning and construc-
5 tion of the water supply system.

6 (b) SERVICE AREA.—The water supply system shall
7 provide for safe and adequate municipal, rural, and indus-
8 trial water supplies, environmental enhancement, mitiga-
9 tion of wetland areas, and water conservation in—

10 (1) Lake County, McCook County, Minnehaha
11 County, Turner County, Lincoln County, Clay Coun-
12 ty, and Union County, in southeastern South Da-
13 kota;

14 (2) Rock County and Nobles County, in south-
15 western Minnesota; and

16 (3) Lyon County, Sioux County, Osceola Coun-
17 ty, O'Brien County, Dickinson County, and Clay
18 County, in northwestern Iowa.

19 (c) AMOUNT OF GRANTS.—Grants made available
20 under subsection (a) to the water supply system shall not
21 exceed the amount of funds authorized under section 10.

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

1 (1) the requirements of the National Environ-
2 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
3 are met;

4 (2) a final engineering report is prepared and
5 submitted to Congress not less than 90 days before
6 the commencement of construction of the water sup-
7 ply system; and

8 (3) a water conservation program is developed
9 and implemented.

10 **SEC. 4. FEDERAL ASSISTANCE FOR THE ENVIRONMENTAL**
11 **ENHANCEMENT COMPONENT.**

12 (a) INITIAL DEVELOPMENT.—The Secretary shall
13 make grants and other funds available to the water supply
14 system and other private, State, and Federal entities, for
15 the initial development of the environmental enhancement
16 component.

17 (b) NONREIMBURSEMENT.—Funds provided under
18 subsection (a) shall be nonreimbursable and nonreturn-
19 able.

20 **SEC. 5. WATER CONSERVATION PROGRAM.**

21 (a) IN GENERAL.—The water supply system shall es-
22 tablish a water conservation program that ensures that
23 users of water from the water supply system use the best
24 practicable technology and management techniques to con-
25 serve water use.

1 (b) REQUIREMENTS.—The water conservation pro-
2 grams shall include—

3 (1) low consumption performance standards for
4 all newly installed plumbing fixtures;

5 (2) leak detection and repair programs;

6 (3) rate schedules that do not include declining
7 block rate schedules for municipal households and
8 special water users (as defined in the feasibility
9 study);

10 (4) public education programs and technical as-
11 sistance to member entities; and

12 (5) coordinated operation among each rural
13 water system, and each water supply facility in exist-
14 ence on the date of enactment of this Act, in the
15 service area of the system.

16 (c) REVIEW AND REVISION.—The programs de-
17 scribed in subsection (b) shall contain provisions for peri-
18 odic review and revision, in cooperation with the Secretary.

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

20 Mitigation for fish and wildlife losses incurred as a
21 result of the construction and operation of the water sup-
22 ply system shall be on an acre-for-acre basis, based on eco-
23 logical equivalency, concurrent with project construction,
24 as provided in the feasibility study.

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

2 (a) IN GENERAL.—From power designated for future
3 irrigation and drainage pumping for the Pick-Sloan Mis-
4 souri Basin program, the Western Area Power Adminis-
5 tration shall make available the capacity and energy re-
6 quired to meet the pumping and incidental operational re-
7 quirements of the water supply system during the period
8 beginning on May 1 and ending on October 31 of each
9 year.

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

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

15 (2) The water supply system shall contract to
16 purchase the entire electric service requirements of
17 the system, including the capacity and energy made
18 available under subsection (a), from a qualified pref-
19 erence power supplier that itself purchases power
20 from the Western Area Power Administration.

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

1 (4) It is agreed by contract among—

2 (A) the Western Area Power Administra-
3 tion;

4 (B) the power supplier with which the
5 water supply system contracts under paragraph
6 (2);

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

9 (D) the water supply system;

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

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

20 This Act does not limit the authorization for water
21 projects in the States of South Dakota, Iowa, and Min-
22 nesota under law in effect on or after the date of enact-
23 ment of this Act.

24 **SEC. 9. WATER RIGHTS.**

25 Nothing in this Act—

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

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

8 (3) preempts or modifies any Federal or State
9 law, or interstate compact, governing water quality
10 or disposal; or

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

14 **SEC. 10. COST SHARING.**

15 (a) FEDERAL COST SHARE.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (2), the Secretary shall provide funds equal to
18 80 percent of—

19 (A) the amount allocated in the total
20 project construction budget for planning and
21 construction of the water supply system under
22 section 3;

23 (B) such amounts as are necessary to de-
24 fray increases in the budget for planning and

1 construction of the water supply system under
2 section 3; and

3 (C) such amounts as are necessary to de-
4 fray increases in development costs reflected in
5 appropriate engineering cost indices after Sep-
6 tember 1, 1993.

7 (2) SIOUX FALLS.—The Secretary shall provide
8 funds for the city of Sioux Falls, South Dakota, in
9 an amount equal to 50 percent of the incremental
10 cost to the city of participation in the project.

11 (b) NON-FEDERAL COST SHARE.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), the non-Federal share of the costs allo-
14 cated to the water supply system shall be 20 percent
15 of the amounts described in subsection (a)(1).

16 (2) SIOUX FALLS.—The non-Federal cost-share
17 for the city of Sioux Falls, South Dakota, shall be
18 50 percent of the incremental cost to the city of par-
19 ticipation in the project.

20 **SEC. 11. BUREAU OF RECLAMATION.**

21 (a) AUTHORIZATION.—The Secretary may allow the
22 Director of the Bureau of Reclamation to provide project
23 construction oversight to the water supply system and en-
24 vironmental enhancement component for the service area
25 of the water supply system described in section 3(b).

1 (b) PROJECT OVERSIGHT ADMINISTRATION.—The
2 amount of funds used by the Director of the Bureau of
3 Reclamation for planning and construction of the water
4 supply system shall not exceed the amount that is equal
5 to 1 percent of the amount provided in the total project
6 construction budget for the entire project construction pe-
7 riod.

8 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

9 There is authorized to be appropriated to carry out
10 this Act \$226,320,000, of which not less than \$8,487,000
11 shall be used for the initial development of the environ-
12 mental enhancement component under section 4, to re-
13 main available until expended.

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