

Calendar No. 571

106TH CONGRESS
2^D SESSION

H. R. 297

IN THE SENATE OF THE UNITED STATES

MAY 24, 2000

Received; read twice and placed on the calendar

AN ACT

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 **TITLE I—LEWIS AND CLARK**
4 **RURAL WATER SYSTEM**

5 **SEC. 101. SHORT TITLE.**

6 This title may be cited as the “Lewis and Clark Rural
7 Water System Act of 2000”.

8 **SEC. 102. DEFINITIONS.**

9 In this title:

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

17 (2) **INCREMENTAL COST.**—The term “incre-
18 mental cost” means the cost of the savings to the
19 project were the City of Sioux Falls not to partici-
20 pate in the water supply system.

21 (3) **MEMBER ENTITY.**—The term “member en-
22 tity” means a rural water system or municipality
23 that meets the requirements for membership as de-
24 fined by the Lewis and Clark Rural Water System,
25 Inc. bylaws, dated September 6, 1990.

1 (4) 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 project, as con-
5 tained in the feasibility study.

6 (5) PUMPING AND INCIDENTAL OPERATIONAL
7 REQUIREMENTS.—The term “pumping and inci-
8 dental operational requirements” means all power
9 requirements that are necessary for the operation of
10 intake facilities, pumping stations, water treatment
11 facilities, 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 (6) SECRETARY.—The term “Secretary” means
16 the Secretary of the Interior.

17 (7) WATER SUPPLY PROJECT.—

18 (A) IN GENERAL.—The term “water sup-
19 ply project” means the physical components of
20 the Lewis and Clark Rural Water Project.

21 (B) INCLUSIONS.—The term “water supply
22 project” includes—

23 (i) necessary pumping, treatment, and
24 distribution facilities;

25 (ii) pipelines;

1 (iii) appurtenant buildings and prop-
2 erty rights;

3 (iv) electrical power transmission and
4 distribution facilities necessary for services
5 to water systems facilities; and

6 (v) such other pipelines, pumping
7 plants, and facilities as the Secretary con-
8 sider necessary and appropriate to meet
9 the water supply, economic, public health,
10 and environment needs of the member en-
11 tities (including water storage tanks, water
12 lines, and other facilities for the member
13 entities).

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

19 **SEC. 103. FEDERAL ASSISTANCE FOR THE WATER SUPPLY**
20 **SYSTEM.**

21 (a) IN GENERAL.—The Secretary shall make grants
22 to the water supply system for the planning and construc-
23 tion of the water supply project.

24 (b) SERVICE AREA.—The water supply system shall
25 provide for the member entities safe and adequate munic-

1 ipal, rural, and industrial water supplies, mitigation of
2 wetland areas, and water conservation in—

3 (1) Lake County, McCook County, Minnehaha
4 County, Turner County, Lincoln County, Clay Coun-
5 ty, and Union County, in southeastern South Da-
6 kota;

7 (2) Rock County and Nobles County, in south-
8 western Minnesota; and

9 (3) Lyon County, Sioux County, Osceola Coun-
10 ty, O'Brien County, Dickinson County, and Clay
11 County, in northwestern Iowa.

12 (c) AMOUNT OF GRANTS.—Grants made available
13 under subsection (a) to the water supply system shall not
14 exceed the amount of funds authorized under section 108.

15 (d) LIMITATION ON AVAILABILITY OF CONSTRUC-
16 TION FUNDS.—The Secretary shall not obligate funds for
17 the construction of the water supply project until—

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

21 (2) a final engineering report and a plan for a
22 water conservation program are prepared and sub-
23 mitted to the Congress not less than 90 days before
24 the commencement of construction of the water sup-
25 ply project.

1 **SEC. 104. MITIGATION OF FISH AND WILDLIFE LOSSES.**

2 Mitigation for fish and wildlife losses incurred as a
3 result of the construction and operation of the water sup-
4 ply project shall be on an acre-for-acre basis, based on
5 ecological equivalency, concurrent with project construc-
6 tion, as provided in the feasibility study.

7 **SEC. 105. USE OF PICK-SLOAN POWER.**

8 (a) IN GENERAL.—From power designated for future
9 irrigation and drainage pumping for the Pick-Sloan Mis-
10 souri Basin program, the Western Area Power Adminis-
11 tration shall make available, at the firm power rate, the
12 capacity and energy required to meet the pumping and
13 incidental operational requirements of the water supply
14 project during the period beginning on May 1 and ending
15 on October 31 of each year.

16 (b) QUALIFICATION TO USE PICK-SLOAN POWER.—
17 For operation during the period beginning May 1 and end-
18 ing October 31 of each year, for as long as the water sup-
19 ply system operates on a not-for-profit basis, the portions
20 of the water supply project constructed with assistance
21 under this title shall be eligible to receive firm power from
22 the Pick-Sloan Missouri Basin program established by sec-
23 tion 9 of the Act of December 22, 1944 (chapter 665; 58
24 Stat. 887), popularly known as the Flood Control Act of
25 1944.

1 **SEC. 106. NO LIMITATION ON WATER PROJECTS IN STATES.**

2 This title does not limit the authorization for water
3 projects in the States of South Dakota, Iowa, and Min-
4 nesota under law in effect on or after the date of the en-
5 actment of this Act.

6 **SEC. 107. WATER RIGHTS.**

7 Nothing in this title—

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

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

15 (3) preempts or modifies any Federal or State
16 law, or interstate compact, governing water quality
17 or disposal; or

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

21 **SEC. 108. COST SHARING.**

22 (a) **FEDERAL COST SHARE.**—

23 (1) **IN GENERAL.**—Except as provided in para-
24 graph (2), the Secretary shall provide funds equal to
25 80 percent of—

1 (A) the amount allocated in the total
 2 project construction budget for planning and
 3 construction of the water supply project under
 4 section 103; and

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

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

13 (b) NON-FEDERAL COST SHARE.—

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

18 (2) SIOUX FALLS.—The non-Federal cost-share
 19 for the City of Sioux Falls, South Dakota, shall be
 20 50 percent of the incremental cost to the city of par-
 21 ticipation in the project.

22 **SEC. 109. BUREAU OF RECLAMATION.**

23 (a) AUTHORIZATION.—At the request of the water
 24 supply system, the Secretary may allow the Commissioner
 25 of Reclamation to provide project construction oversight

1 to the water supply project for the service area of the
 2 water supply system described in section 103(b).

3 (b) PROJECT OVERSIGHT ADMINISTRATION.—The
 4 amount of funds used by the Commissioner of Reclama-
 5 tion for oversight described in subsection (a) shall not ex-
 6 ceed the amount that is equal to 1 percent of the amount
 7 provided in the total project construction budget for the
 8 entire project construction period.

9 **SEC. 110. PROJECT OWNERSHIP AND RESPONSIBILITY.**

10 The water supply system shall retain title to all
 11 project facilities during and after construction, and shall
 12 be responsible for all operation, maintenance, repair, and
 13 rehabilitation costs of the project.

14 **SEC. 111. AUTHORIZATION OF APPROPRIATIONS.**

15 There is authorized to be appropriated to carry out
 16 this title \$213,887,700, to remain available until ex-
 17 pended.

18 **TITLE II—SLY PARK UNIT**
 19 **CONVEYANCE**

20 **SEC. 201. DEFINITIONS.**

21 For the purpose of this title, the term—

22 (1) “Secretary” means the Secretary of the In-
 23 terior;

24 (2) “Sly Park Unit” means the Sly Park Dam
 25 and Reservoir, Camp Creek Diversion Dam and

1 Tunnel, and conduits and canals as authorized
2 under the American River Act of October 14, 1949
3 (63 Stat. 853), including those used to convey, treat,
4 and store water delivered from Sly Park, as well as
5 all recreation facilities thereto; and

6 (3) “District” means the El Dorado Irrigation
7 District.

8 **SEC. 202. TRANSFER OF SLY PARK UNIT.**

9 (a) IN GENERAL.—The Secretary shall, as soon as
10 practicable after date of the enactment of this Act and
11 in accordance with all applicable law, transfer all right,
12 title, and interest in and to the Sly Park Unit to the Dis-
13 trict.

14 (b) SALE PRICE.—The Secretary is authorized to re-
15 ceive from the District \$2,000,000 to relieve payment obli-
16 gations and extinguish the debt under contract number
17 14–06–200–949IR3, and \$9,500,000 to relieve payment
18 obligations and extinguish all debts associated with con-
19 tracts numbered 14–06–200–7734, as amended by con-
20 tracts numbered 14–06–200–4282A and 14–06–200–
21 8536A. Notwithstanding the preceding sentence, the Dis-
22 trict shall continue to make payments required by section
23 3407(c) of Public Law 102–575 through year 2029.

24 (c) CREDIT REVENUE TO PROJECT REPAYMENT.—
25 Upon payment authorized under subsection (b), the

1 amount paid shall be credited toward repayment of capital
2 costs of the Central Valley Project in an amount equal
3 to the associated undiscounted obligation.

4 **SEC. 203. FUTURE BENEFITS.**

5 Upon payment, the Sly Park Unit shall no longer be
6 a Federal reclamation project or a unit of the Central Val-
7 ley Project, and the District shall not be entitled to receive
8 any further reclamation benefits.

9 **SEC. 204. LIABILITY.**

10 Except as otherwise provided by law, effective on the
11 date of conveyance of the Sly Park Unit under this title,
12 the United States shall not be liable for damages of any
13 kind arising out of any act, omission, or occurrence based
14 on its prior ownership or operation of the conveyed prop-
15 erty.

16 **TITLE III—TREATMENT OF**
17 **PROJECT COSTS FOR SLY**
18 **PARK UNIT**

19 **SEC. 301. TREATMENT OF PROJECT COSTS.**

20 To the extent costs associated with the Sly Park Unit
21 are included as a reimbursable cost of the Central Valley
22 Project, the Secretary is authorized to exclude such costs
23 in excess of those repaid by the Sly Park Unit beneficiaries
24 from the pooled reimbursable costs of the Central Valley
25 Project until such time as the facility is operationally inte-

1 grated into the water supply yield of the Central Valley
2 Project.

3 **TITLE IV—CITY OF ROSEVILLE**
4 **PUMPING PLANT FACILITIES**

5 **SEC. 401. CREDIT FOR INSTALLATION OF ADDITIONAL**
6 **PUMPING PLANT FACILITIES IN ACCORD-**
7 **ANCE WITH AGREEMENT.**

8 (a) IN GENERAL.—The Secretary of the Interior shall
9 credit an amount up to \$1,164,600, the precise amount
10 to be determined by the Secretary through a cost alloca-
11 tion, to the unpaid capital obligation of the City of Rose-
12 ville, California (in this section referred to as the “City”),
13 as such obligation is calculated in accordance with applica-
14 ble Federal reclamation law and Central Valley Project
15 rate setting policy, in recognition of future benefits to be
16 accrued by the United States as a result of the City’s pur-
17 chase and funding of the installation of additional pump-
18 ing plant facilities in accordance with a letter of agreement
19 with the United States numbered 5–07–20–X0331 and
20 dated January 26, 1995. The Secretary shall simulta-
21 neously add an equivalent amount of costs to the capital
22 costs of the Central Valley Project, and such added costs
23 shall be reimbursed in accordance with reclamation law
24 and policy.

1 (b) EFFECTIVE DATE.—The credit under subsection
2 (a) shall take effect upon the date on which—

3 (1) the City and the Secretary of the Interior
4 have agreed that the installation of the facilities re-
5 ferred to in subsection (a) has been completed in ac-
6 cordance with the terms and conditions of the letter
7 of agreement referred to in subsection (a); and
8 (2) the Secretary of the Interior has issued a
9 determination that such facilities are fully operative
10 as intended.

Passed the House of Representatives May 23, 2000.

Attest: JEFF TRANDAHL,
Clerk.

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