

106TH CONGRESS
1ST SESSION

S. 243

IN THE HOUSE OF REPRESENTATIVES

APRIL 12, 1999

Referred to the Committee on Resources

AN ACT

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

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 “Perkins County Rural
5 Water System Act of 1999”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

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

8 (2) amendments made by the Garrison Diver-
9 sion Unit Reformulation Act of 1986 (Public Law
10 101–294) authorized the Southwest Pipeline project
11 as an eligible project for Federal cost share partici-
12 pation; and

13 (3) the Perkins County Rural Water System
14 has continued to be recognized by the State of North
15 Dakota, the Southwest Water Authority, the North
16 Dakota Water Commission, the Department of the
17 Interior, and Congress as a component of the South-
18 west Pipeline Project.

19 **SEC. 3. DEFINITIONS.**

20 In this Act:

21 (1) CORPORATION.—The term “Corporation”
22 means the Perkins County Rural Water System,
23 Inc., a nonprofit corporation established and oper-
24 ated under the laws of the State of South Dakota
25 substantially in accordance with the feasibility study.

1 (2) FEASIBILITY STUDY.—The term “feasibility
2 study” means the study entitled “Feasibility Study
3 for Rural Water System for Perkins County Rural
4 Water System, Inc.”, as amended in March 1995.

5 (3) PROJECT CONSTRUCTION BUDGET.—The
6 term “project construction budget” means the de-
7 scription of the total amount of funds that are need-
8 ed for the construction of the water supply system,
9 as described in the feasibility study.

10 (4) PUMPING AND INCIDENTAL OPERATIONAL
11 REQUIREMENTS.—The term “pumping and inci-
12 dental operational requirements” means all power
13 requirements that are incidental to the operation of
14 the water supply system by the Corporation.

15 (5) SECRETARY.—The term “Secretary” means
16 the Secretary of the Interior, acting through the
17 Commissioner of Reclamation.

18 (6) WATER SUPPLY SYSTEM.—The term “water
19 supply system” means intake facilities, pumping sta-
20 tions, water treatment facilities, cooling facilities,
21 reservoirs, and pipelines operated by the Perkins
22 County Rural Water System, Inc., to the point of
23 delivery of water to each entity that distributes
24 water at retail to individual users.

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

3 (a) IN GENERAL.—The Secretary shall make grants
4 to the Corporation for the Federal share of the costs of—

5 (1) the planning and construction of the water
6 supply system; and

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

11 (b) LIMITATION ON AVAILABILITY OF CONSTRUC-
12 TION FUNDS.—The Secretary shall not obligate funds for
13 the construction of the water supply system until—

14 (1) the requirements of the National Environ-
15 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
16 are met with respect to the water supply system;
17 and

18 (2) a final engineering report and a plan for a
19 water conservation program have been prepared and
20 submitted to Congress for a period of not less than
21 90 days before the commencement of construction of
22 the system.

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

24 Mitigation of fish and wildlife losses incurred as a
25 result of the construction and operation of the water sup-
26 ply system shall be on an acre-for-acre basis, based on eco-

1 logical equivalency, concurrent with project construction,
2 as provided in the feasibility study.

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

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

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

14 (1) The Corporation shall be operated on a not-
15 for-profit basis.

16 (2) The Corporation may contract to purchase
17 its entire electric service requirements for the water
18 supply system, including the capacity and energy
19 made available under subsection (a), from a quali-
20 fied preference power supplier that itself purchases
21 power from the Western Area Power Administration.

22 (3) The rate schedule applicable to the capacity
23 and energy made available under subsection (a) shall
24 be the firm power rate schedule of the Pick-Sloan
25 Eastern Division of the Western Area Power Admin-

1 istration in effect when the power is delivered by the
2 Administration.

3 (4) It shall be agreed by contract among—

4 (A) the Western Area Power Administra-
5 tion;

6 (B) the power supplier with which the Cor-
7 poration contracts under paragraph (2);

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

10 (D) the Corporation;

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

19 **SEC. 7. FEDERAL SHARE.**

20 The Federal share under section 4 shall be 75 percent
21 of—

22 (1) the amount allocated in the total project
23 construction budget for the planning and construc-
24 tion of the water supply system under section 4; and

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

4 **SEC. 8. NON-FEDERAL SHARE.**

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

7 (1) the amount allocated in the total project
 8 construction budget for the planning and construc-
 9 tion of the water supply system under section 4; and
 10 (2) such sums as are necessary to defray in-
 11 creases in development costs reflected in appropriate
 12 engineering cost indices after March 1, 1995.

13 **SEC. 9. CONSTRUCTION OVERSIGHT.**

14 (a) **AUTHORIZATION.**—At the request of the Corpora-
 15 tion, the Secretary may provide the Corporation assistance
 16 in overseeing matters relating to construction of the water
 17 supply system.

18 (b) **PROJECT OVERSIGHT ADMINISTRATION.**—The
 19 amount of funds used by the Secretary for planning and
 20 construction of the water supply system may not exceed
 21 an amount equal to 3 percent of the amount provided in
 22 the total project construction budget for the portion of the
 23 project to be constructed in Perkins County, South Da-
 24 kota.

1 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to the
3 Secretary—

4 (1) \$15,000,000 for the planning and construc-
5 tion of the water supply system under section 4; and

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

 Passed the Senate March 25, 1999.

Attest:

GARY SISCO,
Secretary.