

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Fall River Water Users District Rural Water System Act of 1997".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) **FINDINGS.**—Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Fall River Water Users District Rural Water System located in Fall River County, South Dakota, and the water supplies that are available are of poor quality and do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) past cycles of severe drought in the southeastern area of Fall River County have left residents without a satisfactory water supply, and, during 1990, many home owners and ranchers were forced to haul water to sustain their water needs;

(3) because of the poor quality of water supplies, most members of the Fall River Water Users District are forced to either haul bottled water for human consumption or use distillers;

(4) the Fall River Water Users District Rural Water System has been recognized by the State of South Dakota; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Fall River Water Users District Rural Water System members consists of a Madison Aquifer well, 3 separate water storage reservoirs, 3 pumping stations, and approximately 200 miles of pipeline.

(b) **PURPOSES.**—The purposes of this Act are—

(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Fall River Water Users District Rural Water System in Fall River County, South Dakota;

(2) to assist the members of the Fall River Water Users District in developing safe and adequate municipal, rural, and industrial water supplies; and

(3) to promote the implementation of water conservation programs by the Fall River Water Users District Rural Water System.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) **ENGINEERING REPORT.**—The term "engineering report" means the study entitled "Supplemental Preliminary Engineering Report for Fall River Water Users District" published in August 1995.

(2) **PROJECT CONSTRUCTION BUDGET.**—The term "project construction budget" means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the engineering report.

(3) **PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.**—The term "pumping and incidental operational requirements" means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Fall River Water Users District Rural Water System to each entity that distributes water at retail to individual users.

(4) **SECRETARY.**—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Reclamation.

(5) **WATER SUPPLY SYSTEM.**—The term "water supply system" means the Fall River Water Users District Rural Water System, a nonprofit corporation, established and oper-

ated substantially in accordance with the engineering report.

**SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.**

(a) **IN GENERAL.**—The Secretary shall make grants to the water supply system for the Federal share of the costs of the planning and construction of the water supply system.

(b) **SERVICE AREA.**—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, and water conservation within the boundaries of the Fall River Water Users District, described as follows: bounded on the north by the Angostura Reservoir, the Cheyenne River, and the line between Fall River and Custer Counties, bounded on the east by the line between Fall River and Shannon Counties, bounded on the south by the line between South Dakota and Nebraska, and bounded on the west by the Igloo-Provo Water Project District.

(c) **AMOUNT OF GRANTS.**—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 9.

(d) **LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.**—The Secretary shall not obligate funds for the construction of the water supply system until—

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

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

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

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

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

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

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

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

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

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

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

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

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

(D) the Fall River Water Users District;

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

**SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATE.**

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

**SEC. 8. WATER RIGHTS.**

Nothing in this Act—

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

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

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

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

**SEC. 9. FEDERAL SHARE.**

The Federal share under section 4 shall be 80 percent of—

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

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

**SEC. 10. NON-FEDERAL SHARE.**

The non-Federal share under section 4 shall be 20 percent of—

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

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

**SEC. 11. CONSTRUCTION OVERSIGHT.**

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

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

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

There are authorized to be appropriated—

(1) \$3,600,000 for the planning and construction of the water system under section 4; and

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

**ADDITIONAL COSPONSORS**

S. 63

At the request of Mr. FEINGOLD, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a co-sponsor of S. 63, a bill to amend certain Federal civil rights statutes to prevent the involuntary application of arbitration to claims that arise from unlawful

employment discrimination based on race, color, religion, sex, national origin, age, or disability, and for other purposes.

S. 114

At the request of Mr. INOUYE, the names of the Senator from Arkansas [Mr. HUTCHINSON], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 114, a bill to repeal the reduction in the deductible portion of expenses for business meals and entertainment.

S. 364

At the request of Mr. LIEBERMAN, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 364, a bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices.

S. 394

At the request of Mr. LEAHY, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 394, a bill to partially restore compensation levels to their past equivalent in terms of real income and establish the procedure for adjusting future compensation of justices and judges of the United States.

S. 498

At the request of Mr. CHAFEE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 498, a bill to amend the Internal Revenue Code of 1986 to allow an employee to elect to receive taxable cash compensation on lieu of non-taxable parking benefits, and for other purposes.

S. 499

At the request of Mr. CHAFEE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 499, a bill to amend the Internal Revenue Code of 1986 to provide an election to exclude from the gross estate of a decedent the value of certain land subject to a qualified conservation easement, and to make technical changes to alternative valuation rules.

S. 511

At the request of Mr. CHAFEE, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Hawaii [Mr. INOUYE], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 511, a bill to require that the health and safety of a child be considered in any foster care or adoption placement, to eliminate barriers to the termination of parental rights in appropriate cases, to promote the adoption of children with special needs, and for other purposes.

S. 518

At the request of Mr. ABRAHAM, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 518, a bill to control crime by requiring mandatory victim restitution.

S. 575

At the request of Mr. DURBIN, the name of the Senator from Rhode Island [Mr. REED] was added as a cosponsor of

S. 575, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals.

S. 597

At the request of Mr. BINGAMAN, the names of the Senator from Vermont [Mr. LEAHY], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 597, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of medical nutrition therapy services furnished by registered dietitians and nutrition professionals.

S. 648

At the request of Mr. GORTON, the name of the Senator from Wyoming [Mr. ENZI] was added as a cosponsor of S. 648, a bill to establish legal standards and procedures for product liability litigation, and for other purposes.

S. 664

At the request of Mr. KENNEDY, the names of the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Rhode Island [Mr. REED] were added as cosponsors of S. 664, a bill to establish tutoring assistance programs to help children learn to read well.

S. 674

At the request of Mr. CHAFEE, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 674, a bill to amend title XIX of the Social Security Act to encourage States to expand health coverage of low income children and pregnant women and to provide funds to promote outreach efforts to enroll eligible children under health insurance programs.

S. 716

At the request of Mr. CRAIG, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 716, a bill to establish a Joint United States-Canada Commission on Cattle and Beef to identify, and recommend means of resolving, national, regional, and provincial trade-distorting differences between the countries with respect to the production, processing, and sale of cattle and beef, and for other purposes.

S. 717

At the request of Mr. KENNEDY, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 717, a bill to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes.

S. 732

At the request of Mr. FAIRCLOTH, the names of the Senator from Georgia [Mr. COVERDELL], the Senator from Oklahoma [Mr. INHOFE], the Senator from New Hampshire [Mr. GREGG], the Senator from Alabama [Mr. SESSIONS], the Senator from Missouri [Mr. ASHCROFT], the Senator from Nebraska [Mr. HAGEL], the Senator from South Carolina [Mr. THURMOND], the Senator from Alabama [Mr. SHELBY], the Senator from

Idaho [Mr. CRAIG], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Mississippi [Mr. LOTT], the Senator from Montana [Mr. BURNS], the Senator from Washington [Mr. GORTON], the Senator from New Hampshire [Mr. SMITH], the Senator from Minnesota [Mr. GRAMS], the Senator from Kansas [Mr. BROWNBACK], the Senator from Arkansas [Mr. HUTCHINSON], and the Senator from Texas [Mr. GRAMM] were added as cosponsors of S. 732, a bill to require the Secretary of the Treasury to mint and issue coins in commemoration of the centennial anniversary of the first manned flight of Orville and Wilbur Wright in Kitty Hawk, North Carolina, on December 17, 1903.

## SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the names of the Senator from North Carolina [Mr. HELMS], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

## SENATE CONCURRENT RESOLUTION 7

At the request of Mr. SARBANES, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of Senate Concurrent Resolution 7, a concurrent resolution expressing the sense of Congress that Federal retirement cost-of-living adjustments should not be delayed.

## SENATE CONCURRENT RESOLUTION 21

At the request of Mr. MOYNIHAN, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of Senate Concurrent Resolution 21, a concurrent resolution congratulating the residents of Jerusalem and the people of Israel on the thirtieth anniversary of the reunification of that historic city, and for other purposes.

## SENATE RESOLUTION 76

At the request of Mr. THURMOND, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from North Carolina [Mr. HELMS], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Ohio [Mr. GLENN], the Senator from Alaska [Mr. STEVENS], the Senator from Connecticut [Mr. DODD], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Maine [Ms. COLLINS], the Senator from Alabama [Mr. SHELBY], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Montana [Mr. BURNS], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of Senate Resolution 76, a resolution proclaiming a nationwide moment of remembrance, to be observed on Memorial Day, May 26, 1997, in order to appropriately honor American patriots lost in the pursuit of peace of liberty around the world.