

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3954

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

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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

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## 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8       amended or repealed, such amendment or repeal shall be  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 improvement 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 cooperate 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.”.

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HR 3954 IH—2

HR 3954 IH—3