

104TH CONGRESS
2D SESSION

H. R. 3986

To authorize the construction of the Perkins County Rural Water System and authorize the appropriation of Federal dollars to assist the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 1996

Mr. JOHNSON of South Dakota introduced the following bill; which was referred to the Committee on Resources

A BILL

To authorize the construction of the Perkins County Rural Water System and authorize the appropriation of Federal dollars to assist the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system.

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 1996”.

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

7 (a) FINDINGS.—The Congress finds that—

1 (1) there are insufficient water supplies of rea-
2 sonable quality available to the members of the Per-
3 kins County Rural Water System located in Perkins
4 County, South Dakota, and the water supplies that
5 are available do not meet the minimum health and
6 safety standards, thereby posing a threat to public
7 health and safety;

8 (2) in 1977 the North Dakota State Legislature
9 authorized and directed the State Water Commission
10 to conduct the Southwest Area Water Supply Study,
11 which included water service to a portion of Perkins
12 County, South Dakota;

13 (3) the Garrison Diversion Unit Reformulation
14 Act of 1986 authorized the Southwest Pipeline
15 project as an eligible project for Federal cost share
16 participation;

17 (4) the Perkins County Rural Water System
18 has continued to be recognized by the State of North
19 Dakota, the Southwest Water Authority, the North
20 Dakota Water Commission, the Department of the
21 Interior, and the Congress of the United States as
22 a component of the Southwest Pipeline Project; and

23 (5) the best available, reliable, and safe rural
24 and municipal water supply to serve the needs of the
25 Perkins County Rural Water System, Inc., members

1 is the Missouri River as delivered by the Southwest
2 Pipeline Project in North Dakota.

3 (b) PURPOSES.—The Congress declares that the pur-
4 poses of sections 1 through 13 are to—

5 (1) ensure a safe and adequate municipal,
6 rural, and industrial water supply for the members
7 of the Perkins County Rural Water Supply System,
8 Inc., in Perkins County, South Dakota;

9 (2) assist the citizens of the Perkins County
10 Rural Water Supply System, Inc., to develop safe
11 and adequate municipal, rural, and industrial water
12 supplies; and

13 (3) promote the implementation of water con-
14 servation programs by the Perkins County Rural
15 Water System, Inc.

16 **SEC. 3. DEFINITIONS.**

17 As used in this Act (unless the context clearly re-
18 quires otherwise):

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

23 (2) PROJECT CONSTRUCTION BUDGET.—The
24 term “project construction budget” means the de-
25 scription of the total amount of funds that are need-

1 ed for the construction of the water supply system,
2 as contained in the feasibility study.

3 (3) PUMPING AND INCIDENTAL OPERATIONAL
4 REQUIREMENTS.—The term “pumping and inciden-
5 tal operational requirements” means all power re-
6 quirements that are incidental to the operation of in-
7 take facilities, pumping stations, water treatment fa-
8 cilities, reservoirs, and pipelines up to the point of
9 delivery of water by the Perkins County Rural
10 Water System to each entity that distributes water
11 at retail to individual users.

12 (4) SECRETARY.—The term “Secretary” means
13 the Secretary of the Interior.

14 (5) WATER SUPPLY SYSTEM.—The term “water
15 supply system” means the Perkins County Rural
16 Water System, Inc., that is established and operated
17 substantially in accordance with the feasibility study.

18 **SEC. 4. FEDERAL ASSISTANCE FOR THE WATER SUPPLY**
19 **SYSTEM.**

20 (a) IN GENERAL.—The Secretary is authorized to
21 make grants to the Perkins County Rural Water System,
22 Inc., a nonprofit corporation, for the planning and con-
23 struction of the water supply system.

24 (b) SERVICE AREA.—The water supply system shall
25 provide for safe and adequate municipal, rural, and indus-

1 trial water supplies, mitigation of wetlands areas, and
2 water conservation in Perkins County, South Dakota.

3 (c) AMOUNT OF GRANTS.—Grants made available
4 under subsection (a) to the Perkins County Rural Water
5 System, Inc., shall not exceed the amount authorized
6 under section 10.

7 (d) LIMITATION ON AVAILABILITY OF CONSTRU-
8 TION FUNDS.—The Secretary shall not obligate funds for
9 the construction of the water supply system until—

10 (1) the requirements of the National Environ-
11 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
12 have been met;

13 (2) a final engineering report has been prepared
14 and submitted to the Congress for a period of not
15 less than 90 days before the commencement of con-
16 struction of the system; and

17 (3) a water conservation program has been de-
18 veloped and implemented.

19 **SEC. 5. WATER CONSERVATION.**

20 (a) PURPOSE.—The water conservation program re-
21 quired under this section shall be designed to ensure that
22 users of water from the water supply system will use the
23 best practicable technology and management techniques to
24 conserve water use.

1 (b) DESCRIPTION.—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 structures 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;

11 (5) coordinated operation between the Perkins
12 County Rural Water System and any preexisting
13 water supply facilities within its service area; and

14 (6) coordinated operation between the South-
15 west Pipeline Project of North Dakota and the Per-
16 kins County Rural Water System, Inc., of South Da-
17 kota.

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

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

22 Mitigation of fish and wildlife losses incurred as a
23 result of the construction and operation of the Perkins
24 County Rural Water Supply System shall be on an acre-
25 for-acre basis, based on ecological equivalency, concurrent

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

3 **SEC. 7. 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 water supply system shall be operated
15 on a not-for-profit basis.

16 (2) The water supply system shall contract to
17 purchase its entire electric service requirements, in-
18 cluding the capacity and energy made available
19 under subsection (a), from a qualified preference
20 power supplier that itself purchases power from the
21 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
7 water supply system contracts under paragraph
8 (2);

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

11 (D) the Perkins County Rural Water Sys-
12 tem, Inc.,

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

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

23 This Act shall not limit the authorization for water
24 projects in South Dakota and North Dakota under law
25 in effect on or after the date of enactment of this Act.

1 **SEC. 9. WATER RIGHTS.**

2 Nothing in this Act—

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

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

10 (3) preempts or modifies any Federal or State
11 law, or interstate compact, dealing with water qual-
12 ity or disposal; or

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

16 **SEC. 10. FEDERAL COST SHARE.**

17 The Secretary is authorized to provide funds equal
18 to 75 percent of—

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

22 (2) such sums as are necessary to defray in-
23 creases in development costs reflected in appropriate
24 engineering cost indices after May 1, 1994.

1 **SEC. 11. NON-FEDERAL COST SHARE.**

2 The non-Federal share of the costs allocated to the
3 water supply system shall be 25 percent of—

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

7 (2) such sums as are necessary to defray in-
8 creases in development costs reflected in appropriate
9 engineering cost indices after May 1, 1994.

10 **SEC. 12. BUREAU OF RECLAMATION AUTHORIZATION.**

11 (a) AUTHORIZATION.—The Secretary is authorized to
12 allow the Bureau of Reclamation to provide construction
13 oversight to the water supply system for those areas of
14 the water supply system that are described in section 4(b).

15 (b) PROJECT OVERSIGHT ADMINISTRATION.—The
16 amount of funds used by the Bureau of Reclamation for
17 planning and construction of the water supply system may
18 not exceed an amount equal to 3 percent of the amount
19 provided in the total project construction budget for the
20 portion of the project to be constructed in Perkins County,
21 South Dakota.

22 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated \$15,000,000
24 for the planning and construction of the water system
25 under section 4, plus such sums as are necessary to defray

- 1 increases in development costs reflected in appropriate en-
- 2 gineering cost indices after May 1, 1994.

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