

Union Calendar No. 435

103^D CONGRESS
2^D SESSION

H. R. 3954

[Report No. 103-789]

A BILL

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

OCTOBER 3, 1994

Reported with amendments, committed to the Committee
of the Whole House on the State of the Union, and or-
dered to be printed

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

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

OCTOBER 3, 1994

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

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”.

1 **SEC. 2. REFERENCE.**

2 Whenever in this Act a section or other provision is
3 amended or repealed, such amendment or repeal shall be
4 considered to be made to that section or other provision
5 of the Mni Wiconi Project Act of 1988 (102 Stat. 2566).

6 **SEC. 3. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Subsection (a) of section 2 (102
8 Stat. 2566) is amended—

9 (1) in paragraph (1), by striking “Reservation”
10 and inserting “Reservation, Rosebud Indian Res-
11 ervation, and Lower Brule Indian Reservation”;

12 (2) by redesignating paragraphs (3), (4), and
13 (5) as paragraphs (4), (5), and (6), respectively, and
14 by inserting after paragraph (2) the following new
15 paragraph:

16 “(3) the lack of water supplies on the Rosebud
17 Reservation and Lower Brule Reservation restrict
18 efforts to promote economic development on those
19 reservations;”;

20 (3) in paragraph (5), as redesignated by para-
21 graph (2) of this subsection, by striking “Reserva-
22 tion;” and inserting “Reservation, Rosebud Indian
23 Reservation, and Lower Brule Indian Reservation;”;
24 and

25 (4) in paragraph (6), as redesignated by para-
26 graph (2) of this subsection, by inserting “Rosebud

1 Indian Reservation and Lower Brule Indian Res-
2 ervation,” after “Reservation,”.

3 (b) PURPOSE.—Subsection (b) of section 2 (102 Stat.
4 2566) is amended by inserting “, Rosebud Indian Reserva-
5 tion, and Lower Brule Indian Reservation” after “Res-
6 ervation” each place it appears.

7 **SEC. 4. OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.**

8 (a) AUTHORIZATION.—Subsection (a) of section 3
9 (102 Stat. 2567) is amended—

10 (1) in the matter preceding paragraph (1), by
11 striking “1988.” and inserting “1988, and as more
12 specifically described in the Final Engineering Re-
13 port dated May, 1993.”; and

14 (2) by amending paragraph (3) to read as fol-
15 lows:

16 “(3) facilities to allow for interconnections with
17 the West River Rural Water System, Lyman-Jones
18 Rural Water System, Rosebud Sioux Rural Water
19 System, and Lower Brule Sioux Rural Water Sys-
20 tem;”.

21 (b) CONSTRUCTION REQUIREMENTS.—Subsection (d)
22 of such section (102 Stat. 2568) is amended—

23 (1) by striking “West River Rural Water Sys-
24 tem, and *the Lyman-Jones Rural Water System*,”;
25 and by inserting “West River Rural Water System,

1 the Lyman-Jones Rural Water System, the Rosebud
 2 Sioux Rural Water System, and the Lower Brule
 3 Sioux Rural Water System,”; and

4 (2) by striking “three systems” and inserting
 5 “five systems authorized under this Act”.

6 (c) TITLE TO SYSTEM.—Subsection (e) of such sec-
 7 tion (102 Stat. 2568) is amended by inserting “or encum-
 8 bered” after “transferred”.

9 **SEC. 5. WEST RIVER RURAL WATER SYSTEM AND LYMAN-**
 10 **JONES RURAL WATER SYSTEM.**

11 *Section 4(a) of the Act is amended—*

12 *(1) in paragraph (2), by striking out “65 per*
 13 *centum” and inserting in lieu thereof “80 percent”;*
 14 *and*

15 *(2) in paragraph (3), by striking out “35 per*
 16 *centum” and inserting in lieu thereof “20 percent”.*

17 **SEC. 5. 6. ROSEBUD SIOUX RURAL WATER SYSTEM AND**
 18 **LOWER BRULE SIOUX RURAL WATER SYSTEM.**

19 The Act is amended by inserting after section 3 the
 20 following:

21 **“SEC. 3A. ROSEBUD SIOUX RURAL WATER SYSTEM.**

22 “(a) AUTHORIZATION.—The Secretary is authorized
 23 and directed to plan, design, construct, operate, maintain,
 24 and replace a municipal, rural, and industrial water sys-
 25 tem, to be known as the Rosebud Sioux Rural Water Sys-

1 tem, as generally described in the Rosebud Sioux Tribe
2 Municipal, Rural and Industrial Water Needs Assessment,
3 dated July 1993, and the Final Engineering Report for
4 the Mni Wiconi Rural Water Supply Project dated May,
5 1993. The Rosebud Sioux Rural Water system shall con-
6 sist of—

7 “(1) necessary pumping and treatment facili-
8 ties;

9 “(2) pipelines extending from the points of
10 interconnections with the Oglala Sioux Rural Water
11 System to the Rosebud Indian Reservation;

12 “(3) facilities to allow for interconnections with
13 the Lyman-Jones Rural Water Supply System;

14 “(4) distribution and treatment facilities to
15 serve the needs of the Rosebud Indian Reservation,
16 and other areas described in the Rosebud Sioux
17 Tribe Municipal, Rural and Industrial Water Needs
18 Assessment, dated July 1993, including (but not
19 limited to) the purchase, improvement and repair of
20 existing water systems, including systems owned by
21 individual tribal members and other residents of the
22 Rosebud Indian Reservation;

23 “(5) appurtenant buildings and property rights;

24 “(6) necessary property and property rights;

1 “(7) electrical power transmission and distribu-
2 tion facilities necessary for services to water systems
3 facilities; and

4 “(8) such other pipelines, pumping plants, and
5 facilities as the Secretary deems necessary and ap-
6 propriate to meet the water supply, economic, public
7 health, and environmental needs of the reservation,
8 including (but not limited to) water storage tanks,
9 water lines, and other facilities for the Rosebud
10 Sioux Tribe and reservation villages, towns, and mu-
11 nicipalities.

12 “(b) AGREEMENT WITH NON-FEDERAL ENTITY TO
13 PLAN, DESIGN, CONSTRUCT, OPERATE AND MAINTAIN
14 THE ROSEBUD SIOUX RURAL WATER SUPPLY SYSTEM.—

15 “(1) In carrying out subsection (a), the Sec-
16 retary, with the concurrence of the Rosebud Sioux
17 Tribal Council, shall enter into cooperative agree-
18 ments with the appropriate non-Federal entity or en-
19 tities for planning, designing, constructing, operat-
20 ing, maintaining, and replacing the Rosebud Sioux
21 Rural Water System.

22 “(2) Such cooperative agreements shall set
23 forth, in a manner acceptable to the Secretary—

24 “(A) the responsibilities of the parties for
25 needs assessment, feasibility, and environmental

1 studies; engineering and design; construction;
2 water conservation measures; and administra-
3 tion of any contracts with respect to this sub-
4 paragraph;

5 “(B) the procedures and requirements for
6 approval and acceptance of such design and
7 construction; and

8 “(C) the rights, responsibilities, and liabil-
9 ities of each party to the agreement.

10 “(3) Such cooperative agreements may include
11 purchase, improvement, and repair of existing water
12 systems, including systems owned by individual trib-
13 al members and other residents located on the Rose-
14 bud Indian Reservation.

15 “(4) The Secretary may unilaterally terminate
16 any cooperative agreement entered into pursuant to
17 this section if the Secretary determines that the
18 quality of construction does not meet all standards
19 established for similar facilities constructed by the
20 Secretary or that the operation and maintenance of
21 the system does not meet conditions acceptable to
22 the Secretary for fulfilling the obligations of the
23 United States to the Rosebud Sioux Tribe.

24 “(5) Upon execution of any cooperative agree-
25 ment authorized under this section, the Secretary is

1 authorized to transfer to the appropriate non-Fed-
2 eral entity, on a nonreimbursable basis, the funds
3 authorized to be appropriated by section 10(a) for
4 the Rosebud Sioux Rural Water System.

5 “(c) SERVICE AREA.—The service area of the Rose-
6 bud Sioux Rural Water System shall extend to all of Todd
7 County, South Dakota, and to all other territory and lands
8 generally described in the Rosebud Sioux Tribe Municipal,
9 Rural and Industrial Water Needs Assessment, dated July
10 1993 and the Final Engineering Report for the Mni
11 Wiconi Rural Water Supply Project dated May 1993.

12 “(d) CONSTRUCTION REQUIREMENTS.—The pump-
13 ing plants, pipelines, treatment facilities, and other appur-
14 tenant facilities for the Rosebud Sioux Rural Water Sys-
15 tem shall be planned and constructed to a size sufficient
16 to meet the municipal, rural and industrial water supply
17 requirements of the Rosebud Sioux Tribe and the Lyman-
18 Jones Rural Water System, as generally described in the
19 Rosebud Sioux Tribe Municipal, Rural and Industrial
20 Water Needs Assessment, dated July 1993, and the Final
21 Engineering Report for the Mni Wiconi Rural Water Sup-
22 ply Project dated May, 1993, taking into account the ef-
23 fects of the conservation plans described in section 5. The
24 Rosebud Rural Water System and Lyman-Jones Rural
25 Water System may be interconnected and provided with

1 water service from common facilities. Any joint costs asso-
2 ciated with common facilities shall be allocated to the
3 Rosebud Sioux Rural Water System.

4 “(e) TITLE TO SYSTEM.—Title to the Rosebud Sioux
5 Rural Water System shall be held in trust for the Rosebud
6 Sioux Tribe by the United States and shall not be trans-
7 ferred or encumbered without a subsequent Act of Con-
8 gress.

9 “(f) TECHNICAL ASSISTANCE.—The Secretary is au-
10 thorized and directed to provide such technical assistance
11 as may be necessary to the Rosebud Sioux Tribe to plan,
12 develop, construct, operate, maintain, and replace the
13 Rosebud Sioux Rural Water System, including (but not
14 limited to) operation and management training.

15 “(g) APPLICATION OF THE INDIAN SELF-DETER-
16 MINATION ACT.—Planning, design, construction, and op-
17 eration of the Rosebud Sioux Rural Water System shall
18 be subject to the provisions of the Indian Self-Determina-
19 tion Act (Public Law 93–638, 25 U.S.C. 450).

20 **“SEC. 3B. LOWER BRULE SIOUX RURAL WATER SYSTEM.**

21 “(a) AUTHORIZATION.—The Secretary is authorized
22 and directed to plan, design, construct, operate, maintain,
23 and replace a municipal, rural, and industrial water sys-
24 tem, to be known as the Lower Brule Sioux Rural Water
25 System, as generally described in the Final Engineering

1 Report for the Mni Wiconi Rural Water Supply Project,
2 dated May 1993. The Lower Brule Sioux Rural Water
3 System shall consist of—

4 “(1) necessary pumping and treatment facili-
5 ties;

6 “(2) pipelines extending from the points of
7 interconnections with the Oglala Sioux Rural Water
8 Supply System to the Lower Brule Indian Reserva-
9 tion;

10 “(3) facilities to allow for interconnections with
11 the Lyman-Jones Rural Water Supply System;

12 “(4) distribution and treatment facilities to
13 serve the needs of the Lower Brule Indian Reserva-
14 tion, including (but not limited to) the purchase, im-
15 provement and repair of existing water systems, in-
16 cluding systems owned by individual tribal members
17 and other residents of the Lower Brule Indian Res-
18 ervation;

19 “(5) appurtenant buildings and property rights;

20 “(6) necessary property and property rights;

21 “(7) electrical power transmission and distribu-
22 tion facilities necessary for services to water systems
23 facilities; and

24 “(8) such other pipelines, pumping plants, and
25 facilities as the Secretary deems necessary and ap-

1 appropriate to meet the water supply, economic, public
2 health, and environmental needs of the reservation,
3 including (but not limited to) water storage tanks,
4 water lines, and other facilities for the Lower Brule
5 Sioux Tribe and reservation villages, towns and mu-
6 nicipalities.

7 “(b) AGREEMENT WITH NON-FEDERAL ENTITY TO
8 PLAN, DESIGN, CONSTRUCT, OPERATE AND MAINTAIN
9 THE LOWER BRULE SIOUX RURAL WATER SUPPLY SYS-
10 TEM.—

11 “(1) In carrying out subsection (a), the Sec-
12 retary, with the concurrence of the Lower Brule
13 Sioux Tribal Council, shall enter into cooperative
14 agreements with the appropriate non-Federal entity
15 or entities for planning, designing, constructing, op-
16 erating, maintaining, and replacing the Lower Brule
17 Sioux Rural Water System.

18 “(2) Such ~~cooperate~~ *cooperative* agreements
19 shall set forth, in a manner acceptable to the Sec-
20 retary—

21 “(A) the responsibilities of the parties for
22 needs assessment, feasibility, and environmental
23 studies; engineering and design, construction;
24 water conservation measures; and administra-

1 tion of any contracts with respect to this sub-
2 paragraph;

3 “(B) the procedures and requirements for
4 approval and acceptance of such design and
5 construction; and

6 “(C) the rights, responsibilities, and liabil-
7 ities of each party to the agreement.

8 “(3) Such cooperative agreements may include
9 purchase, improvement, and repair of existing water
10 systems, including systems owned by individual trib-
11 al members and other residents located on the
12 Lower Brule Indian Reservation.

13 “(4) The Secretary may unilaterally terminate
14 any cooperative agreement entered into pursuant to
15 this section if the Secretary determines that the
16 quality of construction does not meet all standards
17 established for similar facilities constructed by the
18 Secretary or that the operation and maintenance of
19 the system does not meet conditions acceptable to
20 the Secretary for fulfilling the obligations of the
21 United States to the Lower Brule Sioux Tribe.

22 “(5) Upon execution of any cooperative agree-
23 ment authorized under this section, the Secretary is
24 authorized to transfer to the appropriate non-Fed-
25 eral entity, on a nonreimbursable basis, the funds

1 authorized to be appropriated by section 10(a) for
2 the Lower Brule Sioux Rural Water System.

3 “(c) SERVICE AREA.—The service area of the Lower
4 Brule Sioux Rural Water System shall be the boundaries
5 of the Lower Brule Indian Reservation.

6 “(d) CONSTRUCTION REQUIREMENTS.—The pump-
7 ing plants, pipelines, treatment facilities, and other appur-
8 tenant facilities for the Lower Brule Sioux Rural Water
9 System shall be planned and constructed to a size suffi-
10 cient to meet the municipal, rural, and industrial water
11 supply requirements of the Lower Brule Sioux Tribe and
12 the Lyman-Jones Rural Water System, as generally de-
13 scribed in the Final Engineering Report of the Mni Wiconi
14 Rural Water Supply Project, dated May 1993, taking into
15 account the effects of the conservation plans described in
16 section 5. The Lower Brule Sioux Rural Water System
17 and Lyman-Jones Rural Water System may be inter-
18 connected and provided with water service from common
19 facilities. Any joint costs associated with common facilities
20 shall be allocated to the Lower Brule Sioux Rural Water
21 System.

22 “(e) TITLE TO SYSTEM.—Title to the Lower Brule
23 Sioux Rural Water System shall be held in trust for the
24 Lower Brule Sioux Tribe by the United States and shall

1 not be transferred or encumbered without a subsequent
2 Act of Congress.

3 “(f) TECHNICAL ASSISTANCE.—The Secretary is au-
4 thorized and directed to provide such technical assistance
5 as may be necessary to the Lower Brule Sioux Tribe to
6 plan, develop, construct, operate, maintain, and replace
7 the Lower Brule Sioux Rural Water System, including
8 (but not limited to) operation and management training.

9 “(g) APPLICATION OF THE INDIAN SELF-DETER-
10 MINATION ACT.—Planning, design, construction, and op-
11 eration of the Lower Brule Sioux Rural Water System
12 shall be subject to the provisions of the Indian Self-Deter-
13 mination Act (Public Law 93–638, 25 U.S.C. 450).”.

14 **SEC. 6. 7. WEST RIVER RURAL WATER SYSTEM AND LYMAN-**
15 **JONES RURAL WATER SYSTEM.**

16 (a) SERVICE AREA.—Subsection (d) of section 4 (102
17 Stat. 2569) is amended by striking the period at the end
18 thereof and inserting “, and Final Engineering Report
19 dated May 1993.”.

20 (b) INTERCONNECTION OF FACILITIES AND WAIVER
21 OF CHARGES.—Section 4 of the Act (102 Stat. 2568) is
22 amended by redesignating subsection (f) as subsection (g)
23 and inserting after subsection (e) the following new sub-
24 section:

1 “(f) INTERCONNECTION OF FACILITIES AND WAIVER
2 OF CHARGES.—The Secretary is authorized to inter-
3 connect the Lyman-Jones Rural Water System, and the
4 West River Rural Water System, with each of the other
5 systems authorized under this Act, and to provide for the
6 delivery of water to the West River Rural Water System,
7 and Lyman-Jones Rural Water System, without charge or
8 cost, from the Missouri River and through common facili-
9 ties of the Oglala Sioux Rural Water Supply System,
10 Rosebud Rural Water System and Lower Brule Rural
11 Water System.”.

12 **SEC. 7. 8. WATER CONSERVATION.**

13 Section 5 of the Act (102 Stat. 2570) is amended
14 by striking “The non-Federal parties (including the Oglala
15 Sioux Tribe)” and inserting “Each non-Federal party (in-
16 cluding the Oglala Sioux Tribe, Rosebud Sioux Tribe, and
17 Lower Brule Sioux Tribe)”.

18 **SEC. 8. 9. MITIGATION OF FISH AND WILDLIFE LOSSES.**

19 Section 6 of the Act (102 Stat. 2570) is amended—

20 (1) in subsection (a)—

21 (A) by inserting “, ROSEBUD SIOUX
22 RURAL WATER SUPPLY SYSTEM, LOWER
23 BRULE SIOUX RURAL WATER SUPPLY SYS-
24 TEM,” after “SUPPLY SYSTEM”; and

1 (B) by inserting “Rosebud Sioux Rural
2 Water Supply System, Lower Brule Sioux
3 Rural Water Supply System,” after “Supply
4 System,”; and

5 (2) in subsection (b)—

6 (A) by inserting “, all Indian tribes resid-
7 ing on reservations within the State of South
8 Dakota,” after “South Dakota”;

9 (B) by inserting “and terrestrial” after
10 “wildlife”;

11 (C) by striking “Such plans” and inserting
12 “Such recommendations”; and

13 (D) by adding at the end the following:
14 “The Indian tribes shall be afforded an opportunity to re-
15 view and concur within any recommendations affecting
16 their reservations before they are submitted to Congress.”.

17 **SEC. 9. ESTABLISHMENT OF THE OGLALA SIOUX, ROSEBUD**
18 **SIOUX AND LOWER BRULE SIOUX BIO-DIVER-**
19 **SITY TRUSTS.**

20 The Act is amended by inserting after section 6 the
21 following new sections:

1 ~~“SEC. 6A. ESTABLISHMENT OF THE OGLALA SIOUX, ROSE-~~
2 ~~BUD SIOUX AND LOWER BRULE SIOUX BIO-DI-~~
3 ~~VERSITY TRUSTS.~~

4 ~~“(a) AUTHORIZATION.—The Secretary shall make~~
5 ~~Federal grants to the Oglala Sioux, Rosebud Sioux and~~
6 ~~Lower Brule Sioux Bio-Diversity Trusts. The Federal con-~~
7 ~~tribution shall not exceed \$16,000,000 and shall be paid~~
8 ~~in 5 annual installments beginning in fiscal year 1995 and~~
9 ~~expended as provided in the Final Engineering Report and~~
10 ~~Environmental Assessment for the Mni Wiconi Rural~~
11 ~~Water Supply Project, dated May 1993, required by sec-~~
12 ~~tion 3(f) of this Act.~~

13 ~~“(b) ELIGIBILITY REQUIREMENTS FOR FEDERAL~~
14 ~~CONTRIBUTIONS.—Each Trust shall be eligible to receive~~
15 ~~Federal grants under subsection (a) if it—~~

16 ~~“(1) is established and operated as a nonprofit~~
17 ~~corporation under the laws of the Tribe on whose~~
18 ~~reservation it will operate;~~

19 ~~“(2) is incorporated to select and provide fund-~~
20 ~~ing to projects that restore, protect and enhance~~
21 ~~wildlife and wildlife habitat;~~

22 ~~“(3) is under the direction of a Board of Trust-~~
23 ~~ees that—~~

24 ~~“(A) has the power to manage all the af-~~
25 ~~fairs of the corporation, including administra-~~

1 tion, data collection, and implementation of the
2 purposes of the Trust; and

3 ~~“(B) is composed of members that do not~~
4 ~~serve on any Federal, tribal, or State legislative~~
5 ~~body, court, agency, commission or board; and~~

6 ~~“(4) is comprised of not less than 3 persons or~~
7 ~~more than 5 persons elected to 3-year, staggered~~
8 ~~terms by the eligible voters of the Tribe on whose~~
9 ~~reservation the Trust will operate.~~

10 ~~“(c) OPERATIONAL REQUIREMENTS OF BIO-DIVER-~~
11 ~~SITY TRUSTS.—The Oglala Sioux, Rosebud Sioux and~~
12 ~~Lower Brule Sioux Bio-Diversity Trusts shall be deemed~~
13 ~~to be operating in accordance with this section if—~~

14 ~~“(1) each Trust is operated to select and pro-~~
15 ~~vide funding to projects that protect, restore and~~
16 ~~maintain plant and animal communities and large-~~
17 ~~scale natural ecosystems in accordance with its cor-~~
18 ~~porate purposes. Projects eligible for funding include~~
19 ~~those that—~~

20 ~~“(A) reconstitute natural biological diver-~~
21 ~~sity that has been diminished;~~

22 ~~“(B) assist the recovery of species popu-~~
23 ~~lations, communities and ecosystems that are~~
24 ~~unable to survive on-site without intervention;~~

1 “(C) allow reintroduction and reoccupation
2 by native flora and fauna;

3 “(D) control or eliminate exotic flora and
4 fauna which are damaging natural ecosystems;

5 “(E) restore natural habitat for the re-
6 cruitment and survival of fish, waterfowl and
7 other wildlife;

8 “(F) provide additional conservation values
9 to Indian trust lands;

10 “(G) add to structural and compositional
11 values of existing preserves or enhance the via-
12 bility, defensibility and management of pre-
13 serves; and

14 “(H) restore natural hydrological effects
15 including sediment and erosion control drain-
16 age, percolation and other water quality im-
17 provement capacity;

18 “(2) each Trust is managed in a fiscally respon-
19 sible fashion by investing in private and public fi-
20 nancial vehicles approved by the Secretary with the
21 goal of producing income and preserving principle;

22 “(3) trust funds are deposited in financial insti-
23 tutions other than those used by the Oglala Sioux
24 Tribe, Rosebud Sioux Tribe and Lower Brule Sioux
25 Tribe for their General Funds; the principal will be

1 inviolate, but income from the principal will be used
2 to accomplish the goals of the trust; and expendi-
3 tures of all funds from each trust account shall be
4 based on an annual budget approved by the Sec-
5 retary; and

6 “(4) not less than 10 percent of the interest
7 earned each year from the principal in each account
8 shall be added to the principal.

9 “~~(d) RESTRICTION ON LOCATION OF PROJECTS TO~~
10 ~~BE FUNDED BY TRUST.~~—Projects eligible for funding
11 under this section must be located within the service areas
12 of the Oglala Sioux Rural Water Supply System, the Rose-
13 bud Sioux Rural Water System or Lower Brule Sioux
14 Rural Water System.

15 “~~(e) REPORTING REQUIREMENTS ON TRUST.~~—The
16 Secretary shall annually report on the operation and man-
17 agement of each Trust to the Committee on Natural Re-
18 sources and the Committee on Appropriations of the
19 House of Representatives and the Committee on Energy
20 and Natural Resources, the Committee on Appropriations,
21 and the Select Committee on Indian Affairs of the Senate.

22 **“SEC. 6B. ESTABLISHMENT OF THE WEST RIVER AND**
23 **LYMAN-JONES BIO-DIVERSITY TRUST.**

24 “(a) AUTHORIZATION.—The Secretary shall make a
25 Federal contribution in the form of a Federal grant to

1 the West River and Lyman-Jones Bio-Diversity Trusts.
2 The Federal contribution shall not exceed \$9,000,000 and
3 shall be paid in five annual installments beginning in fiscal
4 year 1995.

5 “(b) ELIGIBILITY REQUIREMENTS FOR FEDERAL
6 CONTRIBUTIONS.—The West River and Lyman-Jones
7 Bio-Diversity Trusts shall be eligible to receive Federal
8 contributions pursuant to subsection (a) if they comply
9 with the following requirements:

10 “(1) Each Trust is established and operated as
11 a nonprofit corporation under the laws of the State
12 of South Dakota.

13 “(2) The corporate purposes of each Trust are
14 to select and provide funding to projects that re-
15 store, protect and enhance wildlife and wildlife habi-
16 tat within the West River and Lyman-Jones service
17 areas described in section 4(d) of this Act.

18 “(3) Each Trust is under the direction of a
19 Board of Trustees that has the power to manage all
20 the affairs of the corporation, including administra-
21 tion, data collection, and implementation of the pur-
22 poses of the Trust.

23 “(4) The Board of each Trust is comprised of
24 not less than 3 nor more than 10 persons appointed
25 by the West River Rural Water System and Lyman-

1 Jones Rural Water System recognized in section 4
2 of this Act.

3 ~~“(c) OPERATIONAL REQUIREMENTS OF TRUST.—~~
4 ~~The West River and Lyman Jones Bio-Diversity Trusts~~
5 ~~shall be deemed to be operating in accordance with this~~
6 ~~section if—~~

7 ~~“(1) each Trust is operated to select and pro-~~
8 ~~vide funding to projects that protect, restore and~~
9 ~~maintain plant and animal communities and large-~~
10 ~~scale natural ecosystems in accordance with its cor-~~
11 ~~porate purposes. Projects eligible for funding by the~~
12 ~~Trust include those that—~~

13 ~~“(A) reconstitute natural biological diver-~~
14 ~~sity that has been diminished;~~

15 ~~“(B) assist the recovery of species popu-~~
16 ~~lations, communities, and ecosystems that are~~
17 ~~unable to survive on site without intervention;~~

18 ~~“(C) allow reintroduction and reoccupation~~
19 ~~by native flora and fauna;~~

20 ~~“(D) control or eliminate exotic flora and~~
21 ~~fauna which are damaging natural ecosystems;~~

22 ~~“(E) restore natural habitat for the re-~~
23 ~~ruitment and survival of fish, waterfowl and~~
24 ~~other wildlife;~~

1 “(F) add to structural and compositional
2 values of existing preserves or enhance the via-
3 bility, defensibility and management of pre-
4 serves; and

5 “(G) restore natural hydrological effects
6 including sediment and erosion control drain-
7 age, percolation and other water quality im-
8 provement capacity;

9 “(2) each trust is managed in a fiscally respon-
10 sible fashion by investing in private and public fi-
11 nancial vehicles approved by the Secretary with the
12 goal of producing income and preserving principal;
13 and the principal of each trust will be inviolate, but
14 income from the principal will be used to accomplish
15 the goals of the trust;

16 “(3) expenditures of all funds from each trust
17 account shall be based on an annual budget ap-
18 proved by the Secretary; and

19 “(4) not less than 10 percent of the interest
20 earned each year from the principal in each account
21 shall be added to the principal.

22 “(d) RESTRICTION ON LOCATION OF PROJECTS TO
23 BE FUNDED BY TRUST.—Projects eligible for funding
24 under this section must be located within the service areas

1 of the West River Rural Water System and the Lyman-
2 Jones Rural Water System.

3 ~~“(e) REPORTING REQUIREMENTS ON TRUST.—The~~
4 Secretary shall annually report on the operation and man-
5 agement of each Trust to the Committee on Natural Re-
6 sources and the Committee on Appropriations of the
7 House of Representatives and the Committee on Energy
8 and Natural Resources and the Committee on Appropria-
9 tions of the Senate.”.

10 **SEC. 10. PROHIBITION OF USE OF FUNDS FOR IRRIGATION**
11 **PURPOSES.**

12 Section 7 of the Act (102 Stat. 2570) is amended
13 by striking “Supply System,” and inserting “Supply Sys-
14 tem, the Rosebud Sioux Rural Water Supply System, the
15 Lower Brule Rural Water Supply System,”.

16 **SEC. 11. RULE OF CONSTRUCTION.**

17 Section 8 of the Act (102 Stat. 2570) is amended—

18 (1) by inserting “, Rosebud Sioux Tribe, and
19 Lower Brule Sioux Tribe” after “Tribe”; and

20 (2) by striking “or construct” and inserting
21 “construct, maintain, or replace”.

22 **SEC. 12. USE OF PICK-SLOAN POWER.**

23 (a) IN GENERAL.—Subsection (a) of section 9 (102
24 Stat. 2570) is amended by striking “sections 3” and in-
25 serting “sections 3, 3A, 3B,”.

1 (b) ~~POWER TO BE USED.~~—Subsection (b) of section
2 9 (102 Stat. 2570) is amended by striking the period at
3 the end thereof and inserting the following: “on an annual
4 basis. For the purposes of this subsection, the term ‘an-
5 nual basis’ means 12 months out of each calendar year.”.

6 (c) ~~ADDITIONAL POWER.~~—Subsection (d) of section
7 9 is amended by striking “is authorized to” and all that
8 follows and inserting the following:

9 “shall—

10 “(1) in fulfillment of the Federal Government’s
11 obligations and responsibilities to provide preference
12 power to Indian tribes under Pick-Sloan, provide the
13 Oglala Sioux Rural Water Supply System, Rosebud
14 Sioux Rural Water Supply System and Lower Brule
15 Rural Water Supply System with all additional
16 power necessary at the wholesale firm power rate for
17 Pick-Sloan (Eastern Division) in effect at the time
18 power is sold; and

19 “(2) purchase additional power needed for the
20 West River Rural Water System and Lyman-Jones
21 Rural Water System if necessary under such terms
22 and conditions as the Administrator deems appro-
23 priate.

24 Expenses associated with power purchases under para-
25 graph (2) shall be recovered through a separate power

1 charge, sufficient to recover these expenses, applied to the
2 West River Rural Water System and Lyman-Jones Rural
3 Water System.”.

4 ~~(d)~~ (b) DEFINITIONS.—Subsection (e)(1) of section 9
5 (102 Stat. 2571) is amended by striking “Supply Sys-
6 tem,” and inserting “Supply System, the Rosebud Sioux
7 Rural Water Supply System, the Lower Brule Sioux Rural
8 Water Supply System,”.

9 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

10 Section 10 of the Act (102 Stat. 2571) is amended
11 to read as follows:

12 **“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

13 “(a) PLANNING, DESIGN, AND CONSTRUCTION.—
14 There are authorized to be appropriated \$263,241,000 for
15 the planning, design, and construction of the Oglala Sioux
16 Rural Water Supply System, the Rosebud Sioux Rural
17 Water Supply System, the Lower Brule Sioux Rural
18 Water Supply System, the West River Rural Water Supply
19 System, and the Lyman-Jones Rural Water Supply Sys-
20 tem described in sections 3, 3A, 3B, and 4. Such funds
21 are authorized to be appropriated only through the end
22 of the year 2003. The funds authorized to be appropriated
23 by the first sentence of this section, less any amounts pre-
24 viously obligated for the Systems, may be increased or de-
25 creased by such amounts as may be justified by reason

1 of ordinary fluctuations in development costs incurred
2 after October 1, 1992, as indicated by engineering costs
3 indices applicable for the type of construction involved.

4 “(b) OPERATION AND MAINTENANCE OF OGLALA
5 SIOUX RURAL WATER SUPPLY SYSTEM, ROSEBUD SIOUX
6 RURAL WATER SUPPLY SYSTEM AND LOWER BRULE
7 SIOUX RURAL WATER SUPPLY SYSTEM.—There are au-
8 thorized to be appropriated such sums as may be nec-
9 essary for the operation and maintenance of the Oglala
10 Sioux Rural Water Supply System, Rosebud Sioux Rural
11 Water Supply System and Lower Brule Sioux Rural
12 Water Supply System. *The operation and maintenance ex-*
13 *penses associated with water deliveries to the West River*
14 *and Lyman-Jones Rural Water Systems are a non-Federal*
15 *responsibility and for such deliveries the Secretary shall*
16 *enter into a contract with the West River and Lyman-Jones*
17 *Systems for the payment of an annual operation and main-*
18 *tenance fee. Such fee shall be based on the incremental oper-*
19 *ation and maintenance costs for water actually delivered*
20 *each year to the West River and Lyman-Jones Rural Water*
21 *Systems. Such operation and maintenance payments shall*
22 *be increased or decreased by such amounts as may be justi-*
23 *fied by reason of ordinary fluctuations as indicated by indi-*
24 *ces applicable to comparable regional rural water supply*
25 *systems for the type of operation and maintenance involved.*

1 “(c) ~~BIO-DIVERSITY TRUSTS.~~—There is authorized
2 to be appropriated \$26,500,000 for the establishment, op-
3 eration, and maintenance of the ~~bio-diversity trusts estab-~~
4 lished under sections 6A and 6B of this Act. The Sec-
5 retary shall utilize \$1,500,000 of the funds authorized
6 under this subsection as start-up funds for the trusts. The
7 funds authorized by this subsection may be increased by
8 such amounts as may be justified by reason of ordinary
9 fluctuations in development costs incurred after January
10 1, 1994.

11 “(d) ~~(c)~~ WASTE WATER DISPOSAL SYSTEMS FEA-
12 SIBILITY STUDIES.—There is authorized to be appro-
13 priated such sums as may be necessary to complete the
14 feasibility studies authorized by section 15(c).”.

15 **SEC. 14. WATER RIGHTS.**

16 Paragraph (5) of section 11 (102 Stat. 2571) is
17 amended—

18 (1) by inserting “rights, benefits, privileges or
19 claims, including” after “affect any”;

20 (2) by inserting “Rosebud Sioux Tribe and
21 Lower Brule Sioux Tribe,” after “Tribe,” the first
22 place it appears;

23 (3) by striking “the Pine Ridge Indian Reserva-
24 tion” and inserting “their respective reservations”;

25 and

1 (4) by striking “Tribe,” the second place it ap-
2 pears and inserting “Tribe, Rosebud Sioux Tribe,
3 Lower Brule Sioux Tribe,”.

4 **SEC. 15. FEASIBILITY STUDIES.**

5 (a) ALTERNATE USES.—Section 3 of Public Law 97-
6 273, as amended by section 12(b) of Public Law 100-516
7 (102 Stat. 2572), is amended by striking “Dakota,” and
8 inserting “Dakota and all Indian tribes residing on res-
9 ervations within the State of South Dakota,”.

10 (b) WASTE WATER DISPOSAL SYSTEMS.—Section 12
11 of the Act (102 Stat. 2572) is amended by adding at the
12 end the following:

13 “(c) WASTE WATER DISPOSAL SYSTEMS.—(1) The
14 Secretary is authorized and directed, in consultation with
15 the Oglala Sioux Tribe, Rosebud Sioux Tribe and Lower
16 Brule Sioux Tribe, to conduct feasibility studies on the
17 need to develop waste water disposal facilities and sys-
18 tems, and rehabilitate existing waste water disposal facili-
19 ties and systems, on the Pine Ridge Indian Reservation,
20 Rosebud Indian Reservation and Lower Brule Indian Res-
21 ervation, and to report to the Congress the findings of
22 such studies along with his recommendations.

23 “(2) The feasibility studies authorized under this
24 subsection shall be completed and presented to Congress

- 1 within one year after the date that funds are first made
- 2 available by the Secretary to complete the studies.”.

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