

104TH CONGRESS  
2D SESSION

# H. R. 3985

To authorize the construction of the Fall River Water Users District Rural Water System and authorize the appropriation of Federal dollars to assist the Fall River Water Users District, a nonprofit corporation, in the planning and construction of the water supply system.

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## 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

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## A BILL

To authorize the construction of the Fall River Water Users District Rural Water System and authorize the appropriation of Federal dollars to assist the Fall River Water Users District, 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 “Fall River Water Users  
5       District Rural Water System Act of 1996”.

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

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

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1           (1) there are insufficient water supplies of rea-  
2           sonable quality available to the members of the Fall  
3           River Water Users District Rural Water System lo-  
4           cated in Fall River County, South Dakota, and the  
5           water supplies that are available are of poor quality  
6           and do not meet the minimum health and safety  
7           standards, thereby posing a threat to public health  
8           and safety;

9           (2) past cycles of severe drought in the south-  
10          eastern area of Fall River county have left local resi-  
11          dents without a satisfactory water supply and during  
12          1990, many home owners and ranchers were forced  
13          to haul water to sustain their water needs;

14          (3) most members of the Fall River Water  
15          Users District are forced to either haul bottled water  
16          for human consumption or use distillers due to the  
17          poor quality of water supplies available;

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

21          (5) the best available, reliable, and safe rural  
22          and municipal water supply to serve the needs of the  
23          Fall River Water Users District Rural Water Sys-  
24          tem members consists of a Madison Aquifer well, 3

1 separate water storage reservoirs, 3 pumping sta-  
2 tions, and approximately 200 miles of pipeline.

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 Fall River Water Users District Rural Water  
8 System in Fall River County, South Dakota;

9 (2) assist the citizens of the Fall River Water  
10 Users District to develop safe and adequate municipi-  
11 pal, rural, and industrial water supplies; and

12 (3) promote the implementation of water con-  
13 servation programs by the Fall River Water Users  
14 District Rural Water System.

15 **SEC. 3. DEFINITIONS.**

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

18 (1) ENGINEERING REPORT.—The term “engi-  
19 neering report” means the study entitled “Supple-  
20 mental Preliminary Engineering Report for Fall  
21 River Water Users District” in August 1995.

22 (2) PROJECT CONSTRUCTION BUDGET.—The  
23 term “project construction budget” means the de-  
24 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, cooling facilities, reservoirs, and pipelines up  
9 to the point of delivery of water by the Fall River  
10 Water Users District Rural Water System to each  
11 entity that distributes water at retail to individual  
12 users.

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

15 (5) WATER SUPPLY SYSTEM.—The term “water  
16 supply system” means the Fall River Water Users  
17 District Rural Water System that is established and  
18 operated substantially in accordance with the fea-  
19 sibility study.

20 **SEC. 4. FEDERAL ASSISTANCE FOR THE WATER SUPPLY**  
21 **SYSTEM.**

22 (a) IN GENERAL.—The Secretary is authorized to  
23 make grants to the Fall River Water Users District Rural  
24 Water System, a nonprofit corporation, for the planning  
25 and construction of the water supply system.

1 (b) SERVICE AREA.—The water supply system shall  
2 provide for safe and adequate municipal, rural, and indus-  
3 trial water supplies, mitigation of wetlands areas; and  
4 water conservation within the boundaries of the Fall River  
5 Water Users District, described as follows: bounded on the  
6 north by the Angostura Reservoir, the Cheyenne River,  
7 and the Fall River/Custer County line, bounded on the  
8 east by the Fall River/Shannon County line, bounded on  
9 the south by the South Dakota/Nebraska State line, and  
10 bounded on the west by the previously established Igloo-  
11 Provo Water Project District.

12 (c) AMOUNT OF GRANTS.—Grants made available  
13 under subsection (a) to the Fall River Water Users Dis-  
14 trict Rural Water System shall not exceed the amount au-  
15 thorized under section 10.

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

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

22 (2) a final engineering report has been prepared  
23 and submitted to the Congress for a period of not  
24 less than 90 days before the commencement of con-  
25 struction of the system; and

1           (3) a water conservation program has been de-  
2           veloped and implemented.

3 **SEC. 5. WATER CONSERVATION.**

4           (a) **PURPOSE.**—The water conservation program re-  
5           quired under this section shall be designed to ensure that  
6           users of water from the water supply system will use the  
7           best practicable technology and management techniques to  
8           conserve water use.

9           (b) **DESCRIPTION.**—The water conservation pro-  
10          grams shall include—

11           (1) low consumption performance standards for  
12           all newly installed plumbing fixtures;

13           (2) leak detection and repair programs;

14           (3) rate structures that do not include declining  
15           block rate schedules for municipal households and  
16           special water users (as defined in the feasibility  
17           study);

18           (4) public education programs; and

19           (5) coordinated operation between the Fall  
20           River Water Users District Rural Water System and  
21           any preexisting water supply facilities within its  
22           service area.

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

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

2 Mitigation of fish and wildlife losses incurred as a  
3 result of the construction and operation of the Fall River  
4 Water Users District Rural Water System shall be on an  
5 acre-for-acre basis, based on ecological equivalency, con-  
6 current with project construction, as provided in the fea-  
7 sibility study.

8 **SEC. 7. USE OF PICK-SLOAN POWER.**

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

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

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

21 (2) The water supply system shall contract to  
22 purchase its entire electric service requirements, in-  
23 cluding the capacity and energy made available  
24 under subsection (a), from a qualified preference  
25 power supplier that itself purchases power from the  
26 Western Area Power Administration.

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

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

8                   (A) the Western Area Power Administra-  
9                   tion;

10                   (B) the power supplier with which the  
11                   water supply system contracts under paragraph  
12                   (2);

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

15                   (D) the Fall River Water Users District,

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

1 **SEC. 8. NO LIMITATION ON WATER PROJECTS IN STATE.**

2 This Act shall not limit the authorization for water  
3 projects in South Dakota and under law in effect on or  
4 after the date of enactment of this Act.

5 **SEC. 9. WATER RIGHTS.**

6 Nothing in this Act—

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

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

14 (3) preempts or modifies any Federal or State  
15 law, or interstate compact, dealing with water qual-  
16 ity or disposal; or

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

20 **SEC. 10. FEDERAL COST SHARE.**

21 The Secretary is authorized to provide funds equal  
22 to 80 percent of—

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

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

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

5           The non-Federal share of the costs allocated to the  
6 water supply system shall be 20 percent of—

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

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

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

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

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

1 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

2       There are authorized to be appropriated \$3,600,000  
3 for the planning and construction of the water system  
4 under section 4, plus such sums as are necessary to defray  
5 increases in development costs reflected in appropriate en-  
6 gineering cost indices after August 1, 1995.

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