

104TH CONGRESS
2D SESSION

H. R. 4188

To authorize the construction of the Fort Peck Reservation Rural Water System, Montana, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 25, 1996

Mr. WILLIAMS introduced the following bill; which was referred to the Committee on Resources

A BILL

To authorize the construction of the Fort Peck Reservation Rural Water System, Montana, 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 “Fort Peck Reservation
5 Rural Water System Act of 1995”.

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

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

8 (1) there are insufficient water supplies avail-
9 able to residents of the Fort Peck Indian Reserva-
10 tion in Montana, and the water systems that are

1 available do not meet minimum health and safety
2 standards, thereby posing a threat to public health
3 and safety;

4 (2) the United States has a trust responsibility
5 to ensure that adequate and safe water supplies are
6 available to meet the economic, environmental, water
7 supply, and public health needs of the Fort Peck In-
8 dian Reservation; and

9 (3) the best available, reliable, and safe rural
10 and municipal water supply to serve the needs of the
11 Fort Peck Indian Reservation is the Missouri River.

12 (b) PURPOSE.—The Congress declares that the pur-
13 poses of sections 1 through 7 are to ensure a safe and
14 adequate municipal, rural, and industrial water supply for
15 the residents of the Fort Peck Indian Reservation in Mon-
16 tana;

17 **SEC. 3. FORT PECK RESERVATION RURAL WATER SYSTEM.**

18 (a) AUTHORIZATION.—The Secretary of the Interior
19 (hereafter referred to as the “Secretary”) is authorized
20 and directed to plan, design, construct, operate, maintain,
21 and replace a municipal, rural and industrial water sys-
22 tem, to be known as the Fort Peck Reservation Rural
23 Water System, as generally described in the report entitled
24 Technical Report for the Fort Peck Reservation Rural

1 Water System and dated July, 1995. The Fort Peck Res-
2 ervation Rural Water System shall consist of—

3 (1) pumping and treatment facilities located
4 along the Missouri River near Poplar, Montana;

5 (2) pipelines extending from the Missouri River
6 near Poplar, Montana, throughout the Fort Peck In-
7 dian Reservation;

8 (3) facilities to allow for future interconnections
9 to areas outside the Fort Peck Indian Reservation,
10 including communities of Plentywood, Scobey,
11 Flaxville, and Culbertson;

12 (4) distribution and treatment facilities to serve
13 the needs of the Fort Peck Indian Reservation, in-
14 cluding but not limited to the purchase, improve-
15 ment and repair of existing water systems, including
16 systems owned by individual tribal members and
17 other residents of the Fort Peck Indian Reservation;

18 (5) appurtenant buildings and access roads;

19 (6) necessary property and property rights;

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

23 (8) such other pipelines, pumping plants, and
24 facilities as the Secretary deems necessary or appro-
25 priate to meet the water supply, economic, public

1 health, and environmental needs of the reservation,
2 including (but not limited to) water storage tanks,
3 water lines, and other facilities for the Fort Peck
4 Assiniboine and Sioux Tribes and reservation vil-
5 lages, towns, and municipalities.

6 (b) AGREEMENT TO PLAN, CONSTRUCT, OPERATE
7 AND MAINTAIN THE FORT PECK RESERVATION RURAL
8 WATER SYSTEM:

9 (1) In carrying out subsection (a), the Sec-
10 retary shall enter into cooperative agreements with
11 the Fort Peck Tribal Executive Board for planning,
12 designing, constructing, operating, maintaining, and
13 replacing the Fort Peck Reservation Rural Water
14 System.

15 (2) Such cooperative agreements shall set forth,
16 in a manner acceptable to the Secretary and the
17 Tribal Executive Board—

18 (A) the responsibilities of the parties for
19 needs assessment, feasibility, and environmental
20 studies; engineering and design; construction;
21 water conservation measures; and administra-
22 tion of any contracts with respect to this sub-
23 paragraph;

1 (B) the procedures and requirements for
2 approval and acceptance of such design and
3 construction; and

4 (C) the rights, responsibilities, and liabil-
5 ities of each party to the agreement.

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

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

21 (5) Upon execution of any cooperative agree-
22 ment authorized upon this section, and in accord-
23 ance with its terms, the Secretary is authorized to
24 transfer to the Fort Peck Tribes on a non-reimburs-
25 able basis, the funds authorized to be appropriated

1 by section 6 for the Fort Peck Reservation Rural
2 Water System.

3 (c) SERVICE AREA.—The service area of the Fort
4 Peck Reservation Rural Water System shall be the Fort
5 Peck Indian Reservation and surrounding communities.

6 (d) CONSTRUCTION REQUIREMENTS.—The pumping
7 plants, pipelines, treatment facilities, and other appur-
8 tenant facilities for the Fort Peck Reservation Rural
9 Water System shall be planned and constructed to a size
10 sufficient to meet the municipal, rural, and industrial
11 water supply requirements of the Fort Peck Indian Res-
12 ervation and the rural areas north of the Reservation, tak-
13 ing into account the effects of the water conservation
14 plans described in section 4.

15 (e) TITLE TO SYSTEM.—Title to the Fort Peck Res-
16 ervation Rural Water Supply System shall be held in trust
17 for the Fort Peck Assiniboiné and Sioux Tribes by the
18 United States and shall not be transferred without a sub-
19 sequent Act of Congress.

20 (f) LIMITATION ON AVAILABILITY OF CONSTRUCTION
21 FUNDS.—The Secretary shall not obligate funds for the
22 construction of the Fort Peck Reservation Rural Water
23 Supply System until—

24 (1) the requirements of the National Environ-
25 mental Policy Act of 1969 have been met; and

1 (2) a final engineering report has been ap-
2 proved by the Secretary.

3 (g) TECHNICAL ASSISTANCE.—The Secretary is au-
4 thorized and directed to provide such technical assistance
5 as may be necessary to the Fort Peck Tribes to plan, de-
6 velop, construct, operate, maintain and replace the Fort
7 Peck Reservation Rural Water Supply System, including
8 (but not limited to) operation and management training.

9 (h) APPLICATION OF INDIAN SELF-DETERMINATION
10 ACT.—Planning, design, construction and operation of the
11 Fort Peck Reservation Rural Water System within the
12 Fort Peck Reservation shall be subject to the provisions
13 of the Indian Self-Determination Act (Public Law 93–638;
14 U.S.C. 450).

15 **SEC. 4. WATER CONSERVATION PROGRAMS.**

16 (a) In order to reduce costs and to reduce water con-
17 sumption, the Secretary, prior to obligating any construc-
18 tion funds, shall issue a public notice finding that plans
19 for the Fort Peck Reservation Rural Water System in-
20 clude prudent and responsible water conservation meas-
21 ures for the operation of the system where such measures
22 are shown to be economically and financially feasible. The
23 Fort Peck Tribes shall develop a water conservation plan
24 containing definite goals, appropriate water conservation
25 measures, and a time schedule for meeting the water con-

1 servation objectives. The provisions of section 210(c) of
2 Public Law 97–293 (96 Stat. 1268) shall apply with re-
3 spect to the systems.

4 (b) 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.

9 **SEC 5. USE OF PICK-SLOAN POWER.**

10 (a) IN GENERAL.—The Fort Peck Reservation Rural
11 Water System shall utilize power from Pick-Sloan for op-
12 eration. This power shall be deemed to be a project use
13 pumping requirement of Pick-Sloan.

14 (b) POWER TO BE USED.—As of the date of enact-
15 ment of this Act, power identified for future project use
16 pumping shall be reserved for and made available for the
17 purpose authorized by subsection (a).

18 (c) RATE.—The rate for project use power made
19 available pursuant to subsection (a) shall be the wholesale
20 firm power rate for Pick-Sloan (Eastern Division) in effect
21 at the time the power is sold.

22 (d) ADDITIONAL POWER.—If additional power be-
23 yond that made available through subsection (b) is re-
24 quired to meet the pumping requirements of the system,
25 the Administrator of the Western Area Power Administra-

1 tion is authorized to purchase the additional power needed
2 under such terms and conditions the Administrator deems
3 appropriate. Expenses associated with such power pur-
4 chases shall be recovered through a separate power
5 charge, sufficient to recover these expenses, applied to the
6 System.

7 (e) DEFINITIONS.—For purposes of this section—

8 (1) the term “System” means the Fort Peck
9 Reservation Rural Water System; and

10 (2) the term “Pick Sloan” means the Pick-
11 Sloan Missouri Basin Program authorized by section
12 9 of the Act of December 22, 1944 (58 Stat. 891;
13 commonly referred to as the Flood Control Act of
14 1944).

15 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

16 (a) PLANNING, DESIGN, AND CONSTRUCTION.—
17 There are authorized to be appropriated \$114,734,300 for
18 the planning, design, and construction of the Fort Peck
19 Reservation Rural Water System, the system defined
20 under the provisions of section 3. Such funds are author-
21 ized to be appropriated only through the end of the fifth
22 fiscal year after which construction funds are first made
23 available. The funds authorized to be appropriated by the
24 first sentence of this section, less any amounts previously
25 obligated for the System, may be increased or decreased

1 by such amounts as may be justified by reason of ordinary
2 fluctuations in development costs incurred after January
3 1, 1995, as indicated by engineering costs indices applica-
4 ble for the type of construction involved.

5 (b) OPERATION AND MAINTENANCE OF FORT PECK
6 RESERVATION RURAL WATER SUPPLY SYSTEM.—There
7 are authorized to be appropriated such sums as may be
8 necessary for the operation and maintenance of the Fort
9 Peck Reservation Rural Water System.

10 **SEC. 7. WATER RIGHTS.**

11 Nothing in sections 1 through 12 shall be construed
12 to—

13 (1) impair the validity of or preempt any provi-
14 sion of State water law, or of any interstate compact
15 governing water;

16 (2) alter the rights of any State to any appro-
17 priated share of the waters of any body or surface
18 or ground water, whether determined by past or fu-
19 ture interstate compacts, or by past or future legis-
20 lative or final judicial allocations;

21 (3) preempt or modify any State or Federal law
22 or interstate compact dealing with water quality or
23 disposal;

1 (4) confer upon any non-Federal entity the abil-
2 ity to exercise any Federal right to the waters of any
3 stream or to any groundwater resources; or

4 (5) affect any water rights of the Fort Peck
5 Tribes, whether located within or without the exter-
6 nal boundaries of the Fort Peck Indian Reservation,
7 based on treaty, compact, executive orders, agree-
8 ment, Act of Congress, aboriginal title, the Winters
9 doctrine (*Winters v. United States*, 207 U.S. 564
10 (1908)), or otherwise. Nothing contained in this sec-
11 tion or in section 1 through 7, however, is intended
12 to validate or invalidate any assertion of the exist-
13 ence, nonexistence or extinguishment of any water
14 rights, or compacts thereto, held by the Fort Peck
15 Tribes, or any other Indian Tribe or individual In-
16 dian under Federal or State law.

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