

105TH CONGRESS  
2D SESSION

# S. 2117

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 1998

Referred to the Committee on Resources

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## AN ACT

To authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, 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 “Perkins County Rural  
5 Water System Act of 1998”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

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

10 (2) in 1977, the North Dakota State Legisla-  
11 ture authorized and directed the State Water Com-  
12 mission to conduct the Southwest Area Water Sup-  
13 ply Study, which included water service to a portion  
14 of Perkins County, South Dakota;

15 (3) amendments made by the Garrison Diver-  
16 sion Unit Reformulation Act of 1986 (Public Law  
17 101–294) authorized the Southwest Pipeline project  
18 as an eligible project for Federal cost share partici-  
19 pation;

20 (4) the Perkins County Rural Water System  
21 has continued to be recognized by the State of North  
22 Dakota, the Southwest Water Authority, the North  
23 Dakota Water Commission, the Department of the  
24 Interior, and Congress as a component of the South-  
25 west Pipeline Project; and

1           (5) the best available, reliable, and safe rural  
2           and municipal water supply to serve the needs of the  
3           Perkins County Rural Water System, Inc., members  
4           is the waters of the Missouri River as delivered by  
5           the Southwest Pipeline Project in North Dakota.

6           (b) PURPOSES.—The purposes of this Act are—

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

11          (2) to assist the members of the Perkins Coun-  
12          ty Rural Water Supply System, Inc., in developing  
13          safe and adequate municipal, rural, and industrial  
14          water supplies; and

15          (3) to promote the implementation of water  
16          conservation programs by the Perkins County Rural  
17          Water System, Inc.

18 **SEC. 3. DEFINITIONS.**

19          In this Act:

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

24          (2) PROJECT CONSTRUCTION BUDGET.—The  
25          term “project construction budget” means the de-

1 description of the total amount of funds that are need-  
 2 ed for the construction of the water supply system,  
 3 as described in the feasibility study.

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

13 (4) SECRETARY.—The term “Secretary” means  
 14 the Secretary of the Interior, acting through the  
 15 Commissioner of the Bureau of Reclamation.

16 (5) WATER SUPPLY SYSTEM.—The term “water  
 17 supply system” means the Perkins County Rural  
 18 Water System, Inc., a nonprofit corporation, estab-  
 19 lished and operated substantially in accordance with  
 20 the feasibility study.

21 **SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYS-**  
 22 **TEM.**

23 (a) IN GENERAL.—The Secretary shall make grants  
 24 to the water supply system for the Federal share of the  
 25 costs of—

1           (1) the planning and construction of the water  
2           supply system; and

3           (2) repairs to existing public water distribution  
4           systems to ensure conservation of the resources and  
5           to make the systems functional under the new water  
6           supply system.

7           (b) SERVICE AREA.—The water supply system shall  
8           provide for safe and adequate municipal, rural, and indus-  
9           trial water supplies, mitigation of wetlands areas, repairs  
10          to existing public water distribution systems, and water  
11          conservation in Perkins County, South Dakota.

12          (c) AMOUNT OF GRANTS.—Grants made available  
13          under subsection (a) to the water supply system shall not  
14          exceed the Federal share under section 10.

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

18               (1) the requirements of the National Environ-  
19               mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)  
20               are met with respect to the water supply system;  
21               and

22               (2) a final engineering report and a plan for a  
23               water conservation program have been prepared and  
24               submitted to Congress for a period of not less than

1       90 days before the commencement of construction of  
2       the system.

3       **SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.**

4       Mitigation of fish and wildlife losses incurred as a  
5       result of the construction and operation of the water sup-  
6       ply system shall be on an acre-for-acre basis, based on eco-  
7       logical equivalency, concurrent with project construction,  
8       as provided in the feasibility study.

9       **SEC. 6. USE OF PICK-SLOAN POWER.**

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

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

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

22               (2) The water supply system shall contract to  
23       purchase its entire electric service requirements, in-  
24       cluding the capacity and energy made available  
25       under subsection (a), from a qualified preference

1 power supplier that itself purchases power from the  
2 Western Area Power Administration.

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

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

10 (A) the Western Area Power Administra-  
11 tion;

12 (B) the power supplier with which the  
13 water supply system contracts under paragraph  
14 (2);

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

17 (D) the Perkins County Rural Water Sys-  
18 tem, Inc.;

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

1 service, the other usual and customary charges of  
2 the supplier.

3 **SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATES.**

4 This Act does not limit the authorization for water  
5 projects in South Dakota and North Dakota under law  
6 in effect on or after the date of enactment of this Act.

7 **SEC. 8. WATER RIGHTS.**

8 Nothing in this Act—

9 (1) invalidates or preempts State water law or  
10 an interstate compact governing water;

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

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

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

22 **SEC. 9. FEDERAL SHARE.**

23 The Federal share under section 4 shall be 75 percent  
24 of—



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

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

7 **SEC. 10. NON-FEDERAL SHARE.**

8           The non-Federal share under section 4 shall be 25  
9 percent of—

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

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

16 **SEC. 11. CONSTRUCTION OVERSIGHT.**

17           (a) **AUTHORIZATION.**—The Secretary may provide  
18 construction oversight to the water supply system for  
19 areas of the water supply system.

20           (b) **PROJECT OVERSIGHT ADMINISTRATION.**—The  
21 amount of funds used by the Secretary for planning and  
22 construction of the water supply system may not exceed  
23 an amount equal to 3 percent of the amount provided in  
24 the total project construction budget for the portion of the

1 project to be constructed in Perkins County, South Da-  
2 kota.

3 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated—

5 (1) \$15,000,000 for the planning and construc-  
6 tion of the water 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 March 1, 1995.

Passed the Senate October 7 (legislative day, Octo-  
ber 2), 1998.

Attest:

GARY SISCO,  
*Secretary.*