

## Calendar No. 621

105TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
105-368

### PERKINS COUNTY RURAL WATER SYSTEM ACT OF 1997

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OCTOBER 6 (legislative day, OCTOBER 2), 1998.—Ordered to be printed

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Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

### REPORT

[To accompany S. 2117]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2117) 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, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

The amendment are as follows:

1. On page 5, line 20, delete “system;” and insert “system; and”.
2. On page 5, beginning on line 24, strike all after “of the” through page 7, line 5; insert in lieu thereof “system”; and renumber the following sections accordingly.

#### PURPOSE OF THE MEASURE

The purpose of S. 2117 is to authorize grants for the construction of a rural water system in Perkins County, South Dakota.

#### BACKGROUND AND NEED

Perkins County is located in Northwest South Dakota on the border with North Dakota. Like many areas in the High Plains, there are insufficient water supplies of reasonable quality and those that are available do not meet minimum health and safety standards. In 1982 a study was undertaken on the feasibility of building a system that could connect with the proposed Southwest Pipeline Project in North Dakota, a part of the Garrison Diversion Conservancy District. Under the North Dakota Century Law, a Perkins

County connection was included under the original authorization for the Southwest Water Authority. In the early 1990's South Dakota provided the funds for a feasibility study on an 80–20 match with the County. The feasibility study was completed in 1994 and showed that obtaining water from the Southwest Water Authority was the most feasible option and that the system would cost approximately \$20 million. As part of the original agreement with North Dakota, Perkins County would be able to obtain water at the operation and maintenance cost if it furnished about \$5.5 million to increase the pipe capacity to provide 400 gallons/minute. Since Southwest is an ongoing project, \$440,000 was provided in 1996 and \$550,000 in 1997. An additional \$4.5 million will need to be provided to North Dakota during construction of the Perkins County connection to reimburse work already completed. The legislation provides for a 75–25 Federal-local cost share with a total authorization of \$15 million.

#### LEGISLATIVE HISTORY

S. 2117 was introduced on May 22, 1998 by Senator Johnson. A similar measure was introduced by Congressman Thune on March 21, 1997. A hearing was held by the Subcommittee on Water and Power on July 14, 1998.

At the business meeting on September 23, 1998, the Committee on Energy and Natural Resources ordered S. 2117, as amended, favorably reported.

#### COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on September 23, 1998, by a unanimous voice vote of a quorum present, recommends that the Senate pass S. 2117, if amended as described herein.

#### COMMITTEE AMENDMENTS

During the consideration of S. 2117, the Committee adopted an amendment to delete provisions of the legislation that would impose federal standards for water conservation. The Committee believes that such a requirement is unnecessary in this legislation.

#### SECTION-BY-SECTION ANALYSIS

*Section 1* provides a short title.

*Section 2* provides a series of findings and purposes.

*Section 3* provides a series of definitions.

*Section 4(a)* authorizes grants from the Secretary of the Interior for planning and construction of the system and for repairs to the existing distribution system to promote conservation and efficiency.

*Subsection 4(b)* defines the service area as Perkins County, South Dakota.

*Subsection 4(c)* provides that grants may not exceed the federal share (which is defined as 75% under section 9).

*Subsection 4(d)* prohibits any obligation of funds until requirements of the National Environmental Policy Act are met and a final engineering report is submitted to and lays before Congress for 90 days. The inclusion of a provision providing that the require-

ments of the National Environmental Policy Act must be met is not intended to suggest that such requirements would not apply in the absence of the provision nor to suggest that a full Environmental Impact Statement or even an Environmental Assessment would be necessary.

*Section 5* provides standard language on mitigation for fish and wildlife losses.

*Subsection 6(a)* provides that the Western Area Power Administration (WAPA) will make power available for pumping from Pick-Sloan power designated for future irrigation and drainage pumping.

*Subsection 6(b)* makes the provision of power contingent on the system being operated on a not-for-profit basis, that the power be purchased from a qualified preference customer of WAPA, the rate schedule be the firm power rate at the time of delivery by WAPA, and that the preference customer pass through the firm rate, adding only other customary and usual charges.

*Section 7* provides that the Act does not affect any other water project in North or South Dakota.

*Section 8* provides a series of savings provisions on water rights.

*Section 9* provides that the federal share will be 75% of costs.

*Section 10* provides that the local share will be 25% of costs.

*Section 11* authorizes the Secretary to provide construction oversight and limits expenditures by the Secretary to 3% of the construction budget.

*Section 12* authorizes \$15 million subject to appropriate engineering cost indices.

#### COST AND BUDGETARY CONSIDERATIONS

An estimate of the cost of this measure has been requested from the Congressional Budget Office, but has not been received as of the date of filing of this report. When the estimate is received, the Chairman will have it printed in the Congressional Record for the advice of the Senate.

#### REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2117. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 2117, as ordered reported.

#### EXECUTIVE COMMUNICATIONS

On June 5, 1998, the Committee on Energy and Natural Resources requested legislative reports from the Department of the Interior and the Office of Management and Budget setting forth Executive agency recommendations on S. 2117. These reports had not been received at the time the report on S. 2117 was filed. When

the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. The testimony provided by the Commissioner of the Bureau of Reclamation, Department of the Interior, at the Subcommittee hearing follows:

STATEMENT OF ELUID L. MARTINEZ, COMMISSIONER, U.S.  
BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

My name is Eluid Martinez, I am Commissioner of the U.S. Bureau of Reclamation. I am pleased to be here today to provide the Administration's views on S. 2117.

S. 2117, the Perkins County Rural Water System Act of 1997, authorizes the construction of the Perkins County Rural Water System and directs the Secretary of the Interior to make grants and provide assistance and oversight in planning and construction of the water supply system in Perkins County, South Dakota. S. 2117 authorizes the appropriation of \$15 million for the planning and construction oversight of the water supply system and authorizes a seventy five percent Federal cost share. It also authorizes the Western Area Power Administration to make power designated for future irrigation development under the Pick Sloan Missouri Basin Program available for the summer season (May 1 to October 31) at the preference power rate of 14.54 mills/kWh for this rural water supply system.

The Administration opposes S. 2117 as drafted.

The Perkins County Rural Water System (PCRWS) would be located in northwestern South Dakota. It is the second largest county in the state (2,866 mi<sup>2</sup>) and is characterized by widely separated towns and ranches. In 1990, the population of Perkins County was 3,930. The proposed rural water system will serve 189 rural hook-ups, plus the cities of Lemmon and Bison, South Dakota. The purpose of this legislation is to enable Perkins County to connect into the Southwest Pipeline Project (SWPP), which was authorized as part of the Garrison Diversion Unit Reformulation Act of 1986 and is being constructed with a 75 percent Federal cost share. As described in the 1995 Feasibility Study, the preferred alternative for PCRWS is to purchase 400 gallons per minute of treated water from the SWPP in North Dakota and then construct new facilities to distribute the water to customers throughout the Perkins County service area. While Water purchased from SWPP would not meet the area's full demand, the PCRWS proposes to include the construction of a 2,000,000 gallon storage tank to meet the anticipated peak demands. In addition, PCRWS proposes to purchase three existing wells from the City of Lemmon to serve as a back-up water supply during periods of drought. The proposal also includes funding for municipal distribution system upgrades or replacement.

Mr. Chairman, the Bureau of Reclamation recognizes the need for a safe and adequate water supply for the residents of the rural areas that would be served by the pro-

posed project. Reclamation believes the project would meet important needs in the service area, however, we cannot support this bill as drafted because of the cost share requirement in Section 10 directing the Federal government to provide 75 percent of the planning and construction costs through grants. Reclamation's long-standing policy relative to non-Indian rural water system development is that non-Federal interests should repay 100 percent of allocated project construction costs at current interest rates and that they pay 100 percent of operation, and maintenance costs. In addition, we are concerned that this legislation directs the Federal funds authorized for this project be used to upgrade the municipal distribution systems within the City of Lemmon. Traditionally this has not been a function which Reclamation projects have undertaken. This upgrade of municipal distribution is often eligible for loans and grants under other Federal programs including the Rural Utility Service Grants and Loans program, Community Development Block Grants or the Safe Drinking Water Act Revolving Loan Fund.

In summary, Reclamation recognizes that this project would improve the water supply in the service area. It is difficult to justify the minimal cost sharing by non-Federal participants.

It should also be noted that Section 4(a) directs rather than authorizes the Secretary to make grants. As drafted, this bill would increase direct spending and requires a PAYGO offset.

That concludes my testimony, I am pleased to answer any questions.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 2117, as ordered reported.

