

106TH CONGRESS  
1ST SESSION

# S. 244

To authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. JOHNSON (for himself, Mr. DASCHLE, Mr. GRAMS, Mr. WELLSTONE, Mr. GRASSLEY, and Mr. HARKIN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

---

## A BILL

To authorize the construction of the Lewis and Clark Rural Water System and to authorize assistance to the Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for 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 “Lewis and Clark Rural  
5 Water System Act of 1999”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ENVIRONMENTAL ENHANCEMENT.—The  
4 term “environmental enhancement” means the wet-  
5 land and wildlife enhancement activities that are  
6 carried out substantially in accordance with the envi-  
7 ronmental enhancement component of the feasibility  
8 study.

9 (2) ENVIRONMENTAL ENHANCEMENT COMPO-  
10 NENT.—The term “environmental enhancement  
11 component” means the component described in the  
12 report entitled “Wetlands and Wildlife Enhancement  
13 for the Lewis and Clark Rural Water System”,  
14 dated April 1991, that is included in the feasibility  
15 study.

16 (3) FEASIBILITY STUDY.—The term “feasibility  
17 study” means the study entitled “Feasibility Level  
18 Evaluation of a Missouri River Regional Water Sup-  
19 ply for South Dakota, Iowa and Minnesota”, dated  
20 September 1993, that includes a water conservation  
21 plan, environmental report, and environmental en-  
22 hancement component.

23 (4) MEMBER ENTITY.—The term “member en-  
24 tity” means a rural water system or municipality  
25 that signed a Letter of Commitment to participate  
26 in the water supply system.

1           (5) PROJECT CONSTRUCTION BUDGET.—The  
2 term “project construction budget” means the de-  
3 scription of the total amount of funds needed for the  
4 construction of the water supply system, as con-  
5 tained in the feasibility study.

6           (6) PUMPING AND INCIDENTAL OPERATIONAL  
7 REQUIREMENTS.—The term “pumping and inciden-  
8 tal operational requirements” means all power re-  
9 quirements that are incidental to the operation of in-  
10 take facilities, pumping stations, water treatment fa-  
11 cilities, reservoirs, and pipelines up to the point of  
12 delivery of water by the water supply system to each  
13 member entity that distributes water at retail to in-  
14 dividual users.

15           (7) SECRETARY.—The term “Secretary” means  
16 the Secretary of the Interior.

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

1 **SEC. 3. FEDERAL ASSISTANCE FOR THE WATER SUPPLY**  
2 **SYSTEM.**

3 (a) IN GENERAL.—The Secretary shall make grants  
4 to the water supply system for the planning and construc-  
5 tion of the water supply system.

6 (b) SERVICE AREA.—The water supply system shall  
7 provide for safe and adequate municipal, rural, and indus-  
8 trial water supplies, environmental enhancement, mitiga-  
9 tion of wetland areas, and water conservation in—

10 (1) Lake County, McCook County, Minnehaha  
11 County, Turner County, Lincoln County, Clay Coun-  
12 ty, and Union County, in southeastern South Da-  
13 kota;

14 (2) Rock County and Nobles County, in south-  
15 western Minnesota; and

16 (3) Lyon County, Sioux County, Osceola Coun-  
17 ty, O'Brien County, Dickinson County, and Clay  
18 County, in northwestern Iowa.

19 (c) AMOUNT OF GRANTS.—Grants made available  
20 under subsection (a) to the water supply system shall not  
21 exceed the amount of funds authorized under section 10.

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

1           (1) the requirements of the National Environ-  
2           mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)  
3           are met;

4           (2) a final engineering report is prepared and  
5           submitted to Congress not less than 90 days before  
6           the commencement of construction of the water sup-  
7           ply system; and

8           (3) a water conservation program is developed  
9           and implemented.

10 **SEC. 4. FEDERAL ASSISTANCE FOR THE ENVIRONMENTAL**  
11 **ENHANCEMENT COMPONENT.**

12           (a) INITIAL DEVELOPMENT.—The Secretary shall  
13           make grants and other funds available to the water supply  
14           system and other private, State, and Federal entities, for  
15           the initial development of the environmental enhancement  
16           component.

17           (b) NONREIMBURSEMENT.—Funds provided under  
18           subsection (a) shall be nonreimbursable and nonreturn-  
19           able.

20 **SEC. 5. WATER CONSERVATION PROGRAM.**

21           (a) IN GENERAL.—The water supply system shall es-  
22           tablish a water conservation program that ensures that  
23           users of water from the water supply system use the best  
24           practicable technology and management techniques to con-  
25           serve water use.

1 (b) REQUIREMENTS.—The water conservation pro-  
2 grams shall include—

3 (1) low consumption performance standards for  
4 all newly installed plumbing fixtures;

5 (2) leak detection and repair programs;

6 (3) rate schedules that do not include declining  
7 block rate schedules for municipal households and  
8 special water users (as defined in the feasibility  
9 study);

10 (4) public education programs and technical as-  
11 sistance to member entities; and

12 (5) coordinated operation among each rural  
13 water system, and each water supply facility in exist-  
14 ence on the date of enactment of this Act, in the  
15 service area of the system.

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

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

20 Mitigation for fish and wildlife losses incurred as a  
21 result of the construction and operation of the water sup-  
22 ply system shall be on an acre-for-acre basis, based on eco-  
23 logical equivalency, concurrent with project construction,  
24 as provided in the feasibility study.

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

2 (a) IN GENERAL.—From power designated for future  
3 irrigation and drainage pumping for the Pick-Sloan Mis-  
4 souri Basin program, the Western Area Power Adminis-  
5 tration shall make available the capacity and energy re-  
6 quired to meet the pumping and incidental operational re-  
7 quirements of the water supply system during the period  
8 beginning on May 1 and ending on October 31 of each  
9 year.

10 (b) CONDITIONS.—The capacity and energy described  
11 in subsection (a) shall be made available on the following  
12 conditions:

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

15 (2) The water supply system shall contract to  
16 purchase the entire electric service requirements of  
17 the system, including the capacity and energy made  
18 available under subsection (a), from a qualified pref-  
19 erence power supplier that itself purchases power  
20 from the Western Area Power Administration.

21 (3) The rate schedule applicable to the capacity  
22 and energy made available under subsection (a) shall  
23 be the firm power rate schedule of the Pick-Sloan  
24 Eastern Division of the Western Area Power Admin-  
25 istration in effect when the power is delivered by the  
26 Administration.

1 (4) It is agreed by contract among—

2 (A) the Western Area Power Administra-  
3 tion;

4 (B) the power supplier with which the  
5 water supply system contracts under paragraph  
6 (2);

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

9 (D) the water supply system;

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

19 **SEC. 8. NO LIMITATION ON WATER PROJECTS IN STATES.**

20 This Act does not limit the authorization for water  
21 projects in the States of South Dakota, Iowa, and Min-  
22 nesota under law in effect on or after the date of enact-  
23 ment of this Act.

24 **SEC. 9. WATER RIGHTS.**

25 Nothing in this Act—

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

3           (2) alters the rights of any State to any appro-  
4           priated share of the waters of any body of surface  
5           or ground water, whether determined by past or fu-  
6           ture interstate compacts or by past or future legisla-  
7           tive or final judicial allocations;

8           (3) preempts or modifies any Federal or State  
9           law, or interstate compact, governing water quality  
10          or disposal; or

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

14 **SEC. 10. COST SHARING.**

15          (a) FEDERAL COST SHARE.—

16           (1) IN GENERAL.—Except as provided in para-  
17           graph (2), the Secretary shall provide funds equal to  
18           80 percent of—

19           (A) the amount allocated in the total  
20           project construction budget for planning and  
21           construction of the water supply system under  
22           section 3;

23           (B) such amounts as are necessary to de-  
24           fray increases in the budget for planning and

1 construction of the water supply system under  
2 section 3; and

3 (C) such amounts as are necessary to de-  
4 fray increases in development costs reflected in  
5 appropriate engineering cost indices after Sep-  
6 tember 1, 1993.

7 (2) SIOUX FALLS.—The Secretary shall provide  
8 funds for the city of Sioux Falls, South Dakota, in  
9 an amount equal to 50 percent of the incremental  
10 cost to the city of participation in the project.

11 (b) NON-FEDERAL COST SHARE.—

12 (1) IN GENERAL.—Except as provided in para-  
13 graph (2), the non-Federal share of the costs allo-  
14 cated to the water supply system shall be 20 percent  
15 of the amounts described in subsection (a)(1).

16 (2) SIOUX FALLS.—The non-Federal cost-share  
17 for the city of Sioux Falls, South Dakota, shall be  
18 50 percent of the incremental cost to the city of par-  
19 ticipation in the project.

20 **SEC. 11. BUREAU OF RECLAMATION.**

21 (a) AUTHORIZATION.—The Secretary may allow the  
22 Director of the Bureau of Reclamation to provide project  
23 construction oversight to the water supply system and en-  
24 vironmental enhancement component for the service area  
25 of the water supply system described in section 3(b).

1 (b) PROJECT OVERSIGHT ADMINISTRATION.—The  
2 amount of funds used by the Director of the Bureau of  
3 Reclamation for planning and construction of the water  
4 supply system shall not exceed the amount that is equal  
5 to 1 percent of the amount provided in the total project  
6 construction budget for the entire project construction pe-  
7 riod.

8 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

9 There is authorized to be appropriated to carry out  
10 this Act \$226,320,000, of which not less than \$8,487,000  
11 shall be used for the initial development of the environ-  
12 mental enhancement component under section 4, to re-  
13 main available until expended.

○