

Calendar No. 359

106TH CONGRESS
1ST SESSION

S. 623

[Report No. 106-203]

A BILL

To amend Public Law 89-108 to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, to deauthorize certain project features and irrigation service areas, to enhance natural resources and fish and wildlife habitat, and for other purposes.

NOVEMBER 1, 1999

Reported with amendments

Calendar No. 359106TH CONGRESS
1ST SESSION**S. 623****[Report No. 106-203]**

To amend Public Law 89-108 to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, to deauthorize certain project features and irrigation service areas, to enhance natural resources and fish and wildlife habitat, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 16, 1999

Mr. CONRAD (for himself and Mr. DORGAN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

MARCH 18, 1999

Committee discharged; referred to the Committee on Energy and Natural Resources

NOVEMBER 1, 1999

Reported by Mr. MURKOWSKI, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To amend Public Law 89-108 to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley,

to deauthorize certain project features and irrigation service areas, to enhance natural resources and fish and wildlife habitat, 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 “Dakota Water Re-
 5 sources Act of 1999”.

6 **SEC. 2. PURPOSES AND AUTHORIZATION.**

7 Section 1 of Public Law 89–108 (79 Stat. 433; 100
 8 Stat. 418) is amended—

9 (1) in subsection (a)—

10 (A) in paragraph (2), by striking “of” and
 11 inserting “within”;

12 (B) in paragraph (5), by striking “more
 13 timely” and inserting “appropriate”; and

14 (C) in paragraph (7), by striking “feder-
 15 ally-assisted water resource development project
 16 providing irrigation for 130,940 acres of land”
 17 and inserting “multipurpose federally assisted
 18 water resource project providing irrigation, mu-
 19 nicipal, rural, and industrial water systems,
 20 fish, wildlife, and other natural resource con-
 21 servation and development, recreation, flood
 22 control, ground water recharge, and augmented
 23 stream flows”;

1 (2) in subsection (b)—

2 (A) by inserting “, jointly with the State of
3 North Dakota,” after “construct”;

4 (B) by striking “the irrigation of 130,940
5 acres” and inserting “irrigation”;

6 (C) by striking “fish and wildlife conserva-
7 tion” and inserting “fish, wildlife, and other
8 natural resource conservation”;

9 (D) by inserting “augmented stream flows,
10 ground water recharge,” after “flood control,”;
11 and

12 (E) by inserting “(as modified by the Da-
13 kota Water Resources Act of 1999)” before the
14 period at the end;

15 (3) in subsection (e), by striking “terminated”
16 and all that follows and inserting “terminated.”; and

17 (4) by striking subsections (f) and (g) and in-
18 serting the following:

19 “(f) COSTS.—

20 “(1) ESTIMATE.—The Secretary shall
21 estimate—

22 “(A) the actual construction costs of the
23 facilities (including mitigation facilities) in ex-
24 istence as of the date of enactment of the Da-
25 kota Water Resources Act of 1999; and

1 “(B) the annual operation, maintenance,
2 and replacement costs associated with the used
3 and unused capacity of the features in existence
4 as of that date.

5 “(2) REPAYMENT CONTRACT.—An appropriate
6 repayment contract shall be negotiated that provides
7 for the making of a payment for each payment pe-
8 riod in an amount that is commensurate with the
9 percentage of the total capacity of the project that
10 is in actual use during the payment period.

11 ~~“(3) OPERATION AND MAINTENANCE COSTS.—~~
12 ~~The Secretary shall be responsible for the costs of~~
13 ~~operation and maintenance of the proportionate~~
14 ~~share attributable to the capacity of the facilities~~
15 ~~(including mitigation facilities) that remain unused.~~

16 “(3) OPERATION AND MAINTENANCE COSTS.—
17 *Except as otherwise provided in this Act or Reclama-*
18 *tion Law—*

19 “(A) *The Secretary shall be responsible for*
20 *the costs of operation and maintenance of the*
21 *proportionate share of unit facilities in existence*
22 *on the date of enactment of the Dakota Water*
23 *Resources Act of 1999 attributable to the capac-*
24 *ity of the facilities (including mitigation facili-*
25 *ties) that remain unused;*

1 “(B) *The State of North Dakota shall be re-*
 2 *sponsible for costs of operation and maintenance*
 3 *of the proportionate share of existing unit facili-*
 4 *ties that are used and shall be responsible for the*
 5 *full costs of operation and maintenance of any*
 6 *facility constructed after the date of enactment of*
 7 *the Dakota Water Resources Act of 1999; and*

8 “(C) *The State of North Dakota shall be re-*
 9 *sponsible for the costs of providing energy to au-*
 10 *thorized unit facilities.*

11 “(g) AGREEMENT BETWEEN THE SECRETARY AND
 12 THE STATE.—The Secretary shall enter into 1 or more
 13 agreements with the State of North Dakota to carry out
 14 this Act, including operation and maintenance of the com-
 15 pleted unit facilities and the design and construction of
 16 authorized new unit facilities by the State.

17 “(h) BOUNDARY WATERS TREATY OF 1909.—

18 ~~“(1) DELIVERY OF WATER INTO THE HUDSON~~
 19 ~~BAY BASIN.—Water systems constructed under this~~
 20 ~~Act may deliver Missouri River water into the Hud-~~
 21 ~~son Bay basin only after the Secretary, in consulta-~~
 22 ~~tion with the Secretary of State and the Adminis-~~
 23 ~~trator of the Environmental Protection Agency, de-~~
 24 ~~termines that adequate treatment has been provided~~
 25 ~~to meet the requirements of the Treaty Between the~~

1 United States and Great Britain relating to Bound-
2 ary Waters Between the United States and Canada,
3 signed at Washington January 11, 1909 (36 Stat.
4 2448; TS 548) (commonly known as the ‘Boundary
5 Waters Treaty of 1909’).

6 “(1) *DELIVERY OF WATER INTO THE HUDSON*
7 *BAY BASIN.—Prior to construction of any water sys-*
8 *tems authorized under this Act to deliver Missouri*
9 *River water into the Hudson Bay basin, the Sec-*
10 *retary, in consultation with the Secretary of State*
11 *and the Administrator of the Environmental Protec-*
12 *tion Agency, must determine that adequate treatment*
13 *can be provided to meet the requirements of the Trea-*
14 *ty between the United States and Great Britain relat-*
15 *ing to Boundary Waters Between the United States*
16 *and Canada, signed at Washington, January 11,*
17 *1909 (26 Stat. 2448; TS 548) (commonly known as*
18 *the Boundary Waters Treaty of 1909).*

19 “(2) *COSTS.—All costs of construction, oper-*
20 *ation, maintenance, and replacement of water treat-*
21 *ment and related facilities authorized by this Act*
22 *and attributable to meeting the requirements of the*
23 *treaty referred to in paragraph (1) shall be non-*
24 *reimbursable.”.*

1 **SEC. 3. FISH AND WILDLIFE.**

2 Section 2 of Public Law 89–108 (79 Stat. 433; 100
3 Stat. 419) is amended—

4 (1) by striking subsections (b), (c), and (d) and
5 inserting the following:

6 “(b) FISH AND WILDLIFE COSTS.—All fish and wild-
7 life enhancement costs incurred in connection with water-
8 fowl refuges, waterfowl production areas, and wildlife con-
9 servation areas proposed for Federal or State administra-
10 tion shall be nonreimbursable.

11 “(c) RECREATION AREAS.—

12 “(1) COSTS.—If non-Federal public bodies con-
13 tinue to agree to administer land and water areas
14 approved for recreation and agree to bear not less
15 than 50 percent of the separable costs of the unit al-
16 located to recreation and attributable to those areas
17 and all the costs of operation, maintenance, and re-
18 placement incurred in connection therewith, the re-
19 mainder of the separable capital costs so allocated
20 and attributed shall be nonreimbursable.

21 “(2) APPROVAL.—The recreation areas shall be
22 approved by the Secretary in consultation and co-
23 ordination with the State of North Dakota.

24 “(d) NON-FEDERAL SHARE.—The non-Federal share
25 of the separable capital costs of the unit allocated to recre-
26 ation shall be borne by non-Federal interests, using the

1 following methods, as the Secretary may determine to be
2 appropriate:

3 “(1) Services in kind.

4 “(2) Payment, or provision of lands, interests
5 therein, or facilities for the unit.

6 “(3) Repayment, with interest, within 50 years
7 of first use of unit recreation facilities.”;

8 (2) in subsection (e)—

9 (A) by redesignating paragraphs (1) and
10 (2) as paragraphs (2) and (3), respectively;

11 (B) by inserting “(1)” after “(e)”;

12 (C) in paragraph (2) (as redesignated by
13 subparagraph (A))—

14 (i) in the first sentence—

15 (I) by striking “within ten years
16 after initial unit operation to admin-
17 ister for recreation and fish and wild-
18 life enhancement” and inserting “to
19 administer for recreation”; and

20 (II) by striking “which are not
21 included within Federal waterfowl ref-
22 uges and waterfowl production areas”;
23 and

24 (ii) in the second sentence, by striking
25 “or fish and wildlife enhancement”; and

1 (D) in the first sentence of paragraph (3)
2 (as redesignated by subparagraph (A))—

3 (i) by striking “, within ten years
4 after initial operation of the unit,”; and

5 (ii) by striking “paragraph (1) of this
6 subsection” and inserting “paragraph (2)”;

7 (3) in subsection (f), by striking “and fish and
8 wildlife enhancement”; and

9 (4) in subsection (j)—

10 (A) in paragraph (1), by striking “prior to
11 the completion of construction of Lonetree Dam
12 and Reservoir”; and

13 (B) by adding at the end the following:

14 “(4) TAAAYER RESERVOIR.—Taayer Reservoir is
15 deauthorized as a project feature. The Secretary,
16 acting through the Commissioner of Reclamation,
17 shall acquire (including acquisition through donation
18 or exchange) up to 5,000 acres in the Kraft and
19 Pickell Slough areas and to manage the area as a
20 component of the National Wildlife Refuge System
21 giving consideration to the unique wildlife values of
22 the area. In acquiring the lands which comprise the
23 Kraft and Pickell Slough complex, the Secretary
24 shall acquire wetlands in the immediate vicinity
25 which may be hydrologically related and nearby up-

1 lands as may be necessary to provide for proper
2 management of the complex. The Secretary shall
3 provide for appropriate visitor access and control at
4 the refuge.

5 “(5) DEAUTHORIZATION OF LONETREE DAM
6 AND RESERVOIR.—The Lonetree Dam and Reservoir
7 is deauthorized, and the Secretary shall designate
8 the lands acquired for the former reservoir site as a
9 wildlife conservation area. The Secretary shall enter
10 into an agreement with the State of North Dakota
11 providing for the operation and maintenance of the
12 wildlife conservation area as an enhancement fea-
13 ture, the costs of which shall be paid by the Sec-
14 retary. If the features selected under section 8 in-
15 clude a buried pipeline and appurtenances between
16 the McClusky Canal and New Rockford Canal, the
17 use of the wildlife conservation area and Sheyenne
18 Lake National Wildlife Refuge for such route is
19 hereby authorized.”.

20 **SEC. 4. INTEREST CALCULATION.**

21 Section 4 of Public Law 89–108 (100 Stat. 435) is
22 amended by adding at the end the following: “Interest
23 during construction shall be calculated only until such
24 date as the Secretary declares any particular feature to

1 be substantially complete, regardless of whether the fea-
 2 ture is placed into service.”.

3 **SEC. 5. IRRIGATION FACILITIES.**

4 Section 5 of Public Law 89–108 (100 Stat. 419) is
 5 amended—

6 (1) by striking “SEC. 5. (a)(1)” and all that
 7 follows through subsection (c) and inserting the fol-
 8 lowing:

9 **“SEC. 5. IRRIGATION FACILITIES.**

10 **“(a) IN GENERAL.—**

11 **“(1) AUTHORIZED DEVELOPMENT.—**In addition
 12 to the 5,000-acre Oakes Test Area in existence on
 13 the date of enactment of the Dakota Water Re-
 14 sources Act of 1999, the Secretary may develop irri-
 15 gation in—

16 **“(A)** the Turtle Lake service area (13,700
 17 acres);

18 **“(B)** the McClusky Canal service area
 19 (10,000 acres); and

20 **“(C)** if the investment costs are fully reim-
 21 bursed without aid to irrigation from the Pick-
 22 Sloan Missouri Basin Program, the New Rock-
 23 ford Canal service area (1,200 acres).

1 “(2) DEVELOPMENT NOT AUTHORIZED.—None
2 of the irrigation authorized by this section may be
3 developed in the Hudson Bay/Devils Lake Basin.

4 “(3) NO EXCESS DEVELOPMENT.—The Sec-
5 retary shall not develop irrigation in the service
6 areas described in paragraph (1) in excess of the
7 acreage specified in that paragraph, except that the
8 Secretary shall develop up to 28,000 acres of irriga-
9 tion in other areas of North Dakota (such as the
10 Elk/Charbonneau, Mon-Dak, Nesson Valley, Horse-
11 head Flats, and Oliver-Mercer areas) that are not lo-
12 cated in the Hudson Bay/Devils Lake drainage basin
13 or James River drainage basin.

14 “(4) PUMPING POWER.—Irrigation development
15 authorized by this section shall be considered au-
16 thorized units of the Pick-Sloan Missouri Basin Pro-
17 gram and eligible to receive project pumping power.

18 ~~“(5) PRINCIPLE SUPPLY WORKS.—The Sec-
19 retary shall complete and maintain the principle sup-
20 ply works as identified in the 1984 Garrison Diver-
21 sion Unit Commission Final Report dated December
22 20, 1984 as modified by the Dakota Water Re-
23 sources Act of 1999.”;~~

24 “(5) *PRINCIPAL SUPPLY WORKS.*—*The Secretary*
25 *shall maintain the Snake Creek Pumping Plant, New*

1 *Rockford Canal, and McClusky Canal features of the*
2 *principal supply works. As appropriate, the Secretary*
3 *shall rehabilitate or complete such features consistent*
4 *with the purposes of this Act. Subject to the provi-*
5 *sions of sections (8)(c) and (8)(d)(1) of this Act, the*
6 *Secretary shall select a preferred alternative to imple-*
7 *ment the Dakota Water Resources Act of 1999. In*
8 *making this section, one of the alternatives the Sec-*
9 *retary shall consider is whether to connect the prin-*
10 *cipal supply works in existence on the date of enact-*
11 *ment.”;*

12 (2) by redesignating subsections (d), (e), and
13 (f) as subsections (b), (c), and (d), respectively;

14 (3) in the first sentence of subsection (b) (as
15 redesignated by paragraph (2)), by striking “(a)(1)”
16 and inserting “(a)”;

17 (4) in the first sentence of subsection (c) (as re-
18 designated by paragraph (2)), by striking “Lucky
19 Mound (7,700 acres), Upper Six Mile Creek (7,500
20 acres)” and inserting “Lucky Mound (7,700 acres)
21 and Upper Six Mile Creek (7,500 acres), or such
22 other lands at Fort Berthold of equal acreage as
23 may be selected by the tribe and approved by the
24 Secretary,”; and

25 (5) by adding at the end the following:

1 “(e) IRRIGATION REPORT TO CONGRESS.—

2 “(1) IN GENERAL.—The Secretary shall inves-
3 tigate and prepare a detailed report on the undesig-
4 nated 28,000 acres in subsection (a)(3) as to costs
5 and benefits for any irrigation units to be developed
6 under Reclamation law.

7 “(2) FINDING.—The report shall include a find-
8 ing on the *economic*, financial and engineering feasi-
9 bility of the proposed irrigation unit, but shall be
10 limited to the undesignated 28,000 acres.

11 “(3) AUTHORIZATION.—If the Secretary finds
12 that the proposed construction is feasible, such irri-
13 gation units are authorized without further Act of
14 Congress.

15 “(4) DOCUMENTATION.—No expenditure for
16 the construction of facilities authorized under this
17 section shall be made until after the Secretary, in
18 cooperation with the State of North Dakota, has
19 prepared the appropriate documentation in accord-
20 ance with section 1 and pursuant to the National
21 Environmental Policy Act of 1969 (42 U.S.C. 4321
22 et seq.) analyzing the direct and indirect impacts of
23 implementing the report.”.

1 **SEC. 6. POWER.**

2 Section 6 of Public Law 89–108 (79 Stat. 435; 100
3 Stat. 421) is amended—

4 (1) in subsection (b)—

5 (A) by striking “Notwithstanding the pro-
6 visions of” and inserting “Pursuant to the pro-
7 visions of”; and

8 (B) by striking “revenues,” and all that
9 follows and inserting “revenues.”; and

10 (2) by striking subsection (c) and inserting the
11 following:

12 “(c) NO INCREASE IN RATES OR AFFECT ON REPAY-
13 MENT METHODOLOGY.—In accordance with the last sen-
14 tence of section 302(a)(3) of the Department of Energy
15 Organization Act (42 U.S.C. 7152(a)(3)), section 1(e)
16 shall not result in any reallocation of project costs and
17 shall not result in increased rates to Pick-Sloan Missouri
18 Basin Program customers. Nothing in the Dakota Water
19 Resources Act of 1999 alters or affects in any way the
20 repayment methodology in effect as of the date of enact-
21 ment of that Act for other features of the Pick-Sloan Mis-
22 souri Basin Program.”.

23 **SEC. 7. MUNICIPAL, RURAL, AND INDUSTRIAL WATER**
24 **SERVICE.**

25 Section 7 of Public Law 89–108 (100 Stat. 422) is
26 amended—

1 (1) in subsection (a)(3)—

2 (A) in the second sentence—

3 (i) by striking “The non-Federal
4 share” and inserting “Unless otherwise
5 provided in this Act, the non-Federal
6 share”;

7 (ii) by striking “each water system”
8 and inserting “water systems”;

9 (iii) by inserting after the second sen-
10 tence the following: “The State may use
11 the Federal and non-Federal funds to pro-
12 vide grants or loans for municipal, rural,
13 and industrial water systems. The State
14 shall use the proceeds of repaid loans for
15 municipal, rural, and industrial water sys-
16 tems. *Proceeds from loan repayments and*
17 *any interest thereon shall be treated as Fed-*
18 *eral funds.”; and*

19 (iv) by striking the last sentence and
20 inserting the following: “The Southwest
21 Pipeline Project, the Northwest Area
22 Water Supply Project, the Red River Val-
23 ley Water Supply Project, and other mu-
24 nicipal, industrial, and rural water systems
25 in the State of North Dakota shall be eligi-

1 ble for funding under the terms of this sec-
2 tion. Funding provided under this section
3 for the Red River Valley Water Supply
4 Project shall be in addition to funding for
5 that project under section 10(a)(1)(B).
6 The amount of non-Federal contributions
7 made after May 12, 1986, that exceeds the
8 25 percent requirement shall be credited to
9 the State for future use in municipal,
10 rural, and industrial projects under this
11 section.”; and

12 (2) by striking subsections (b), (c), and (d) and
13 inserting the following:

14 “(b) WATER CONSERVATION PROGRAM.—The State
15 of North Dakota may use funds provided under sub-
16 sections (a) and (b)(1)(A) of section 10 to develop and
17 implement a water conservation program. The Secretary
18 and the State shall jointly establish water conservation
19 goals to meet the purposes of the State program and to
20 improve the availability of water supplies to meet the pur-
21 poses of this Act. If the State achieves the established
22 water conservation goals, the non-Federal cost share for
23 future projects under subsection (a)(3) shall be reduced
24 to 24.5 percent.

1 “(c) NONREIMBURSABILITY OF COSTS.—With re-
 2 spect to the Southwest Pipeline Project, the Northwest
 3 Area Water Supply Project, the Red River Valley Water
 4 Supply Project, and other municipal, industrial, and rural
 5 water systems in North Dakota, the costs of the features
 6 constructed on the Missouri River by the Secretary of the
 7 Army before the date of enactment of the Dakota Water
 8 Resources Act of 1999 shall be nonreimbursable.

9 “(d) INDIAN MUNICIPAL RURAL AND INDUSTRIAL
 10 WATER SUPPLY.—The Secretary shall construct, operate,
 11 and maintain such municipal, rural, and industrial water
 12 systems as the Secretary determines to be necessary to
 13 meet the economic, public health, and environmental needs
 14 of the Fort Berthold, Standing Rock, Turtle Mountain (in-
 15 cluding the Trenton Indian Service Area), and Fort
 16 Totten Indian Reservations and adjacent areas.”.

17 **SEC. 8. SPECIFIC FEATURES.**

18 (a) IN GENERAL.—Public Law 89–108 (100 Stat.
 19 423) is amended by striking section 8 and inserting the
 20 following:

21 **“SEC. 8. SPECIFIC FEATURES.**

22 “(a) RED RIVER VALLEY WATER SUPPLY
 23 PROJECT.—

24 “(1) IN GENERAL.—The Secretary shall con-
 25 struct a feature or features to deliver Missouri River

1 water to the Sheyenne River water supply and re-
2 lease facility or such other feature or features as are
3 selected under subsection (d).

4 “(2) DESIGN AND CONSTRUCTION.—The fea-
5 ture shall be designed and constructed to meet only
6 the water delivery requirements of the irrigation
7 areas, municipal, rural, and industrial water supply
8 needs, ground water recharge, and streamflow aug-
9 mentation (as described in subsection (b)(2)) author-
10 ized by this Act.

11 “(3) COMMENCEMENT OF CONSTRUCTION.—
12 The Secretary may not commence construction on
13 the feature until a master repayment contract or
14 water service agreement consistent with this Act be-
15 tween the Secretary and the appropriate non-Fed-
16 eral entity has been executed.

17 “(b) REPORT ON RED RIVER VALLEY WATER NEEDS
18 AND DELIVERY OPTIONS.—

19 “(1) IN GENERAL.—Pursuant to section 1(g),
20 not later than 90 days after the date of enactment
21 of the Dakota Water Resources Act of 1999, the
22 Secretary and the State of North Dakota shall joint-
23 ly submit to Congress a report on the comprehensive
24 water quality and quantity needs of the Red River
25 Valley and the options for meeting those needs, in-

1 cluding the delivery of Missouri River water to the
2 Red River Valley.

3 “(2) NEEDS.—The needs addressed in the re-
4 port shall include such needs as—

5 “(A) augmenting streamflows;

6 “(B) ground water recharge; and

7 “(C) enhancing—

8 “(i) municipal, rural, and industrial
9 water supplies;

10 “(ii) water quality;

11 “(iii) aquatic environment; and

12 “(iv) recreation.

13 “(3) STUDIES.—Existing and ongoing studies
14 by the Bureau of Reclamation on Red River Water
15 Supply needs and options shall be deemed to meet
16 the requirements of this section.

17 “(c) ENVIRONMENTAL IMPACT STATEMENTS.—

18 “(1) DRAFT.—

19 “(A) DEADLINE.—Pursuant to an agree-
20 ment between the Secretary and the State of
21 North Dakota as authorized under section 1(g),
22 not later than 1 year after the date of enact-
23 ment of the Dakota Water Resources Act of
24 1999, the Secretary and the State of North Da-
25 kota shall jointly prepare and complete a draft

1 environmental impact statement concerning all
2 feasible options to meet the comprehensive
3 water quality and quantity needs of the Red
4 River Valley and the options for meeting those
5 needs, including possible alternatives for deliv-
6 ering Missouri River water to the Red River
7 Valley.

8 “(B) REPORT ON STATUS.—If the Sec-
9 retary and State of North Dakota cannot pre-
10 pare and complete the draft environmental im-
11 pact statement within 1 year after the date of
12 enactment of the Dakota Water Resources Act
13 of 1999, the Secretary, in consultation and co-
14 ordination with the State of North Dakota,
15 shall report to Congress on the status of this
16 activity, including an estimate of the date of
17 completion.

18 “(2) FINAL.—

19 “(A) DEADLINE.—Not later than 1 year
20 after filing the draft environmental impact
21 statement, a final environmental impact state-
22 ment shall be prepared and published.

23 “(B) REPORT ON STATUS.—If the Sec-
24 retary and State of North Dakota cannot pre-
25 pare and complete a final environmental impact

1 statement within 1 year of the completion of
2 the draft environmental impact statement, the
3 Secretary, in consultation and coordination with
4 the State of North Dakota, shall report to Con-
5 gress on the status of this activity, including an
6 estimate of the date of completion.

7 “(d) PROCESS FOR SELECTION.—

8 “(1) IN GENERAL.—After reviewing the final
9 report required by subsection (b)(1) and complying
10 with subsection (c), the Secretary, in consultation
11 and coordination with the State of North Dakota in
12 coordination with affected local communities, shall
13 select 1 or more project features described in sub-
14 section (a) that will meet the comprehensive water
15 quality and quantity needs of the Red River Valley.

16 “(2) AGREEMENTS.—Not later than 180 days
17 after the record of decision has been executed, the
18 Secretary shall enter into a cooperative agreement
19 with the State of North Dakota to construct the fea-
20 ture or features selected.

21 “(e) SHEYENNE RIVER WATER SUPPLY AND RE-
22 LEASE OR ALTERNATE FEATURES.—The Secretary shall
23 construct, operate, and maintain a Sheyenne River water
24 supply and release feature (including a water treatment
25 plant) capable of delivering 100 cubic feet per second of

1 water or any other amount determined in the reports
2 under this section, for the cities of Fargo and Grand
3 Forks and surrounding communities, or such other feature
4 or features as may be selected under subsection (d).”.

5 **SEC. 9. OAKES TEST AREA TITLE TRANSFER.**

6 Public Law 89–108 (100 Stat. 423) is amended by
7 striking section 9 and inserting the following:

8 **“SEC. 9. OAKES TEST AREA TITLE TRANSFER.**

9 “(a) IN GENERAL.—Not later than 2 years after exe-
10 cution of a record of decision under section 8(d) on wheth-
11 er to use the New Rockford Canal as a means of delivering
12 water to the Red River Basin as described in section 8,
13 the Secretary shall enter into an agreement with the State
14 of North Dakota, or its designee, to convey title and all
15 or any rights, interests, and obligations of the United
16 States in and to the Oakes Test Area as constructed and
17 operated under Public Law 99–294 (100 Stat. 418) under
18 such terms and conditions as the Secretary believes would
19 fully protect the public interest.

20 “(b) TERMS AND CONDITIONS.—The agreement shall
21 define the terms and conditions of the transfer of the fa-
22 cilities, lands, mineral estate, easements, rights-of-way
23 and water rights including the avoidance of costs that the
24 Federal Government would otherwise incur in the case of
25 a failure to agree under subsection (d).

1 “(c) COMPLIANCE.—The action of the Secretary
2 under this section shall comply with all applicable require-
3 ments of Federal, State, and local law.

4 “(d) FAILURE TO AGREE.—If an agreement is not
5 reached within the time limit specified in subsection (a),
6 the Secretary shall dispose of the Oakes Test Area facili-
7 ties under the Federal Property and Administrative Serv-
8 ices Act of 1949 (40 U.S.C. 471 et seq.).”.

9 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

10 Section 10 of Public Law 89–108 (100 Stat. 424;
11 106 Stat. 4669, ~~4739~~)— *4739* is amended—

12 (1) in subsection (a)—

13 (A) by striking “(a)(1) There are author-
14 ized” and inserting the following:

15 “(a) WATER DISTRIBUTION FEATURES.—

16 “(1) IN GENERAL.—

17 “(A) MAIN STEM SUPPLY WORKS.—There
18 is authorized”;

19 (B) in paragraph (1)—

20 (i) in the first sentence, by striking
21 “\$270,395,000 for carrying out the provi-
22 sions of section 5(a) through 5(c) and sec-
23 tion 8(a)(1) of this Act” and inserting
24 “\$164,000,000 to carry out section 5(a)”;

1 (ii) by inserting after subparagraph
 2 (A) (as designated by clause (i)) the fol-
 3 lowing:

4 “(B) RED RIVER VALLEY WATER SUPPLY
 5 PROJECT.—There is authorized to be appro-
 6 priated to carry out section 8(a)(1)
 7 \$200,000,000.”; and

8 (iii) by striking “Such sums” and in-
 9 serting the following:

10 “(C) AVAILABILITY.—Such sums”; and

11 (C) in paragraph (2)—

12 (i) by striking “(2) There is” and in-
 13 serting the following:

14 “(2) INDIAN IRRIGATION.—

15 “(A) IN GENERAL.—There is”;

16 (ii) by striking “for carrying out sec-
 17 tion 5(e) of this Act” and inserting “to
 18 carry out section 5(c)”;

19 (iii) by striking “Such sums” and in-
 20 serting the following:

21 “(B) AVAILABILITY.—Such sums”;

22 (2) in subsection (b)—

23 (A) by striking “(b)(1) There is” and in-
 24 serting the following:

1 “(b) MUNICIPAL, RURAL, AND INDUSTRIAL WATER
2 SUPPLY.—

3 “(1) STATEWIDE.—

4 “(A) INITIAL AMOUNT.—There is”;

5 (B) in paragraph (1)—

6 (i) by inserting before “Such sums”
7 the following:

8 “(B) ADDITIONAL AMOUNT.—In addition
9 to the amount under subparagraph (A), there is
10 authorized to be appropriated to carry out sec-
11 tion 7(a) ~~“\$300,000,000.”~~ *“\$200,000,000.”*; and

12 (ii) by striking “Such sums” and in-
13 serting the following:

14 “(C) AVAILABILITY.—Such sums”; and

15 (C) in paragraph (2)—

16 (i) by striking “(2) There are author-
17 ized to be appropriated \$61,000,000” and
18 all that follows through “Act.” and insert-
19 ing the following:

20 “(2) INDIAN MUNICIPAL, RURAL, AND INDUS-
21 TRIAL AND OTHER DELIVERY FEATURES.—

22 “(A) INITIAL AMOUNT.—There is author-
23 ized to be appropriated—

24 “(i) to carry out section 8(a)(1),
25 \$40,500,000; and

1 “(ii) to carry out section 7(d),
2 \$20,500,000.”;

3 (ii) by inserting before “Such sums”
4 the following:

5 “(B) ADDITIONAL AMOUNT.—

6 “(i) IN GENERAL.—In addition to the
7 amount under subparagraph (A), there is
8 authorized to be appropriated to carry out
9 section 7(d) \$200,000,000.

10 “(ii) ALLOCATION.—The amount
11 under clause (i) shall be allocated as fol-
12 lows:

13 “(I) \$30,000,000 to the Fort
14 Totten Indian Reservation.

15 “(II) \$70,000,000 to the Fort
16 Berthold Indian Reservation.

17 “(IV) \$80,000,000 to the Stand-
18 ing Rock Indian Reservation.

19 “(V) \$20,000,000 to the Turtle
20 Mountain Indian Reservation.”; and

21 (ii) by striking “Such sums” and in-
22 serting the following:

23 “(C) AVAILABILITY.—Such sums”;

24 (3) in subsection (c)—

1 (A) by striking “(c) There is” and insert-
2 ing the following:

3 “(c) RESOURCES TRUST AND OTHER PROVISIONS.—

4 “(1) INITIAL AMOUNT.—There is”; and

5 (B) by striking the second and third sen-
6 tences and inserting the following:

7 “(2) ADDITIONAL AMOUNT.—In addition to
8 amount under paragraph (1), there are authorized
9 to be appropriated—

10 “(A) \$6,500,000 to carry out recreational
11 projects; and

12 “(B) an additional \$25,000,000 to carry
13 out section 11;

14 to remain available until expended.

15 “(3) RECREATIONAL PROJECTS.—Of the funds
16 authorized under paragraph (2) for recreational
17 projects, up to \$1,500,000 may be used to fund a
18 wetland interpretive center in the State of North
19 Dakota.

20 “(4) OPERATION AND MAINTENANCE.—

21 “(A) IN GENERAL.— There are authorized
22 to be appropriated such sums as are necessary
23 for operation and maintenance of the unit (in-
24 cluding the mitigation and enhancement fea-
25 tures).

1 “(B) AUTHORIZATION LIMITS.—Expendi-
 2 tures for operation and maintenance of features
 3 substantially completed and features con-
 4 structed before the date of enactment of the
 5 Dakota Water Resources Act of 1999, including
 6 funds expended for such purposes since the
 7 date of enactment of Public Law 99–294, shall
 8 not be counted against the authorization limits
 9 in this section.

10 “(5) MITIGATION AND ENHANCEMENT LAND.—
 11 On or about the date on which the features author-
 12 ized by section 8(a) are operational, a separate ac-
 13 count in the Natural Resources Trust authorized by
 14 section 11 shall be established for operation and
 15 maintenance of the mitigation and enhancement
 16 land associated with the unit.”; and

17 (4) by striking subsection (e) and inserting the
 18 following:

19 “(e) INDEXING.—The ~~\$300,000,000~~ \$200,000,000
 20 amount under subsection (b)(1)(B), the \$200,000,000
 21 amount under subsection (a)(1)(B), and the funds author-
 22 ized under subsection (b)(2) shall be indexed as necessary
 23 to allow for ordinary fluctuations of construction costs in-
 24 curred after the date of enactment of the Dakota Water
 25 Resources Act of 1999 as indicated by engineering cost

1 indices applicable for the type of construction involved. All
 2 other authorized cost ceilings shall remain unchanged.

3 ~~“(f) FOUR BEARS BRIDGE.—There is authorized to~~
 4 ~~be appropriated, for demolition of the existing structure~~
 5 ~~and construction of the Four Bears Bridge across Lake~~
 6 ~~Sakakawea within the Fort Berthold Indian Reservation,~~
 7 ~~\$40,000,000.”.~~

8 **SEC. 11. NATURAL RESOURCES TRUST.**

9 Section 11 of Public Law 89–108 (100 Stat. 424)
 10 is amended—

11 (1) by striking subsection (a) and inserting the
 12 following:

13 “(a) CONTRIBUTION.—

14 “(1) INITIAL AUTHORIZATION.—

15 “(A) IN GENERAL.—From the sums appro-
 16 priated under section 10 for the Garrison Di-
 17 version Unit, the Secretary shall make an an-
 18 nual Federal contribution to a Natural Re-
 19 sources Trust established by non-Federal inter-
 20 ests in accordance with subsection (b) and oper-
 21 ated in accordance with subsection (c).

22 “(B) AMOUNT.—The total amount of Fed-
 23 eral contributions under subparagraph (A) shall
 24 not exceed \$12,000,000.

25 “(2) ADDITIONAL AUTHORIZATION.—

1 “(A) IN GENERAL.—In addition to the
2 amount authorized in paragraph (1), the Sec-
3 retary shall make annual Federal contributions
4 to the Natural Resources Trust until the
5 amount authorized by section 10(c)(2)(B) is
6 reached, in the manner stated in subparagraph
7 (B).

8 “(B) ANNUAL AMOUNT.—The amount of
9 the contribution under subparagraph (A) for
10 each fiscal year shall be the amount that is
11 equal to 5 percent of the total amount that is
12 appropriated for the fiscal year under sub-
13 sections (a)(1)(B) and (b)(1)(B) of section 10.

14 ~~“(C) LIMITATION ON AVAILABILITY OF~~
15 ~~FUNDS.—Of the amount authorized by section~~
16 ~~10(c)(2)(B), not more than \$10,000,000 shall~~
17 ~~be made available until the date on which the~~
18 ~~features authorized by section 8(a) are oper-~~
19 ~~ational and meet the objectives of section 8(a);~~
20 ~~as determined by the Secretary and the State of~~
21 ~~North Dakota.”;~~

22 (2) in subsection (b), by striking “Wetlands
23 Trust” and inserting “Natural Resources Trust”;
24 and

25 (3) in subsection (c)—

1 (A) by striking “Wetland Trust” and in-
2 serting “Natural Resources Trust”;

3 (B) by striking “are met” and inserting
4 “is met”;

5 (C) in paragraph (1), by inserting “, grass-
6 land conservation and riparian areas” after
7 “habitat”; and

8 (D) in paragraph (2), by adding at the end
9 the following:

10 “(C) The power to fund incentives for con-
11 servation practices by landowners.”