

Calendar No. 632

103^D CONGRESS
2^D SESSION

S. 2066

[Report No. 103-378]

A BILL

To expand the Mini Wiconi Rural Water Supply
Project, and for other purposes.

SEPTEMBER 26 (legislative day, SEPTEMBER 12), 1994
Reported with amendments

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[Report No. 103-378]

To expand the Mni Wiconi Rural Water Supply Project, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 3 (legislative day, MAY 2), 1994

Mr. DASCHLE (for himself and Mr. PRESSLER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

SEPTEMBER 26 (legislative day, SEPTEMBER 12), 1994

Reported by Mr. JOHNSTON, with amendments

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

A BILL

To expand the Mni Wiconi Rural Water Supply Project,
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 “Mni Wiconi Act
5 Amendments of 1994”.

1 **SEC. 2. REFERENCE.**

2 Whenever in this Act a section or other provision is
3 amended or repealed, such amendment or repeal shall be
4 considered to be made to that section or other provision
5 of the Mni Wiconi Project Act of 1988 (102 Stat. 2566).

6 **SEC. 3. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Section 2(a) is amended—

8 (1) in paragraph (1), by striking “Reservation”
9 and inserting “Reservation, Rosebud Indian Res-
10 ervation, and Lower Brule Indian Reservation”;

11 (2) by redesignating paragraphs (3), (4), and
12 (5) as paragraphs (4), (5), and (6), respectively;

13 (3) by inserting after paragraph (2) the follow-
14 ing new paragraph:

15 “(3) the lack of water supplies on the Rosebud
16 Reservation and Lower Brule Indian Reservation re-
17 strict efforts to promote economic development on
18 those reservations;”;

19 (4) in paragraph (5), as redesignated by para-
20 graph (2) of this subsection, by striking “Reserva-
21 tion;” and inserting “Reservation, Rosebud Indian
22 Reservation, and Lower Brule Indian Reservation;”;
23 and

24 (5) in paragraph (6), as redesignated by para-
25 graph (2) of this subsection, by inserting “Rosebud

1 Indian Reservation, and Lower Brule Indian Res-
2 ervation,” after “Reservation,”.

3 (b) PURPOSE.—Section 2(b) is amended by inserting
4 “, Rosebud Indian Reservation, and Lower Brule Indian
5 Reservation” after “Reservation” each place it appears.

6 **SEC. 4. OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.**

7 (a) AUTHORIZATION.—Section 3(a) is amended—

8 (1) in the matter preceding paragraph (1), by
9 striking “1988.” and inserting “1988, and as more
10 specifically described in the Final Engineering Re-
11 port dated May 1993.”; and

12 (2) by amending paragraph (3) to read as fol-
13 lows:

14 “(3) facilities to allow for interconnections with
15 the West River Rural Water System, Lyman-Jones
16 Rural Water System, Rosebud Sioux Rural Water
17 System, and Lower Brule Sioux Rural Water Sys-
18 tem;”.

19 (b) CONSTRUCTION REQUIREMENTS.—Section 3(d)
20 is amended—

21 (1) by striking “West River Rural Water Sys-
22 tem, and” and inserting “West River Rural Water
23 System, the Rosebud Sioux Rural Water System, the
24 Lower Brule Sioux Rural Water System, and”; and

1 (2) by striking “three systems” and inserting
2 “five systems authorized under this Act”.

3 (c) TITLE TO SYSTEM.—Section 3(e) is amended by
4 inserting “or encumbered” after “transferred”.

5 **SEC. 5. WEST RIVER RURAL WATER SYSTEM AND LYMAN-**
6 **JONES RURAL WATER SYSTEM.**

7 *Section 4(a) of the Act is amended—*

8 (1) *in paragraph (2), by striking out “65 per*
9 *centum” and inserting in lieu thereof “80 percent”;*
10 *and*

11 (2) *in paragraph (3), by striking out “35 per*
12 *centum” and inserting in lieu thereof “20 percent”.*

13 **SEC. 56. ROSEBUD SIOUX RURAL WATER SYSTEM AND**
14 **LOWER BRULE SIOUX RURAL WATER SYSTEM.**

15 The Act is amended by inserting after section 3 the
16 following:

17 **“SEC. 3A. ROSEBUD SIOUX RURAL WATER SYSTEM.**

18 “(a) AUTHORIZATION.—The Secretary shall plan, de-
19 sign, construct, operate, maintain, and replace a municipi-
20 pal, rural, and industrial water system, to be known as
21 the Rosebud Sioux Rural Water System, as generally de-
22 scribed in the Rosebud Sioux Tribe Municipal, Rural and
23 Industrial Water Needs Assessment, dated July 1993, and
24 the Final Engineering Report for the Mni Wiconi Rural

1 Water Supply Project dated May 1993. The Rosebud
2 Sioux Rural Water system shall consist of—

3 “(1) necessary pumping and treatment facili-
4 ties;

5 “(2) pipelines extending from the points of
6 interconnections with the Oglala Sioux Rural Water
7 Supply System to the Rosebud Indian Reservation;

8 “(3) facilities to allow for interconnections with
9 the Lyman-Jones Rural Water System;

10 “(4) distribution and treatment facilities to
11 serve the needs of the Rosebud Indian Reservation,
12 and other areas described in the Rosebud Sioux
13 Tribe Municipal, Rural and Industrial Water Needs
14 Assessment, dated July 1993, including the pur-
15 chase, improvement and repair of existing water sys-
16 tems (including systems owned by individual tribal
17 members and other residents of the Rosebud Indian
18 Reservation);

19 “(5) appurtenant buildings and property rights;

20 “(6) necessary property and property rights;

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

24 “(8) such other pipelines, pumping plants, and
25 facilities as the Secretary determines to be necessary

1 and appropriate to meet the water supply and the
2 economic, public health, and environmental needs of
3 the reservation, including water storage tanks, water
4 lines, and other facilities for the Rosebud Sioux
5 Tribe and reservation villages, towns, and munici-
6 palities.

7 “(b) AGREEMENT WITH NON-FEDERAL ENTITY TO
8 PLAN, DESIGN, CONSTRUCT, OPERATE, AND MAINTAIN
9 THE ROSEBUD SIOUX RURAL WATER SYSTEM.—

10 “(1) In carrying out subsection (a), the Sec-
11 retary, with the concurrence of the Rosebud Sioux
12 Tribal Council, shall enter into cooperative agree-
13 ments with the appropriate non-Federal entity or en-
14 tities for planning, designing, constructing, operat-
15 ing, maintaining, and replacing the Rosebud Sioux
16 Rural Water System.

17 “(2) Each cooperative agreement entered into
18 under this subsection shall set forth, in a manner
19 acceptable to the Secretary—

20 “(A) the responsibilities of the parties
21 for—

22 “(i) needs assessment, feasibility, and
23 environmental studies;

24 “(ii) engineering and design;

25 “(iii) construction;

1 “(iv) water conservation measures;

2 and

3 “(v) administration of any contracts

4 with respect to this subparagraph;

5 “(B) the procedures and requirements for

6 approval and acceptance of design and con-

7 struction; and

8 “(C) the rights, responsibilities, and liabil-

9 ities of each party to the agreement.

10 “(3) Each cooperative agreement may include

11 provisions for the purchase, improvement, and repair

12 of existing water systems, including systems owned

13 by individual tribal members and other residents lo-

14 cated on the Rosebud Indian Reservation.

15 “(4) The Secretary may unilaterally terminate

16 any cooperative agreement entered into pursuant to

17 this section if the Secretary determines that the

18 quality of construction does not meet all standards

19 established for similar facilities constructed by the

20 Secretary, or that the operation and maintenance of

21 the system does not meet conditions acceptable to

22 the Secretary for fulfilling the obligations of the

23 United States to the Rosebud Sioux Tribe.

24 “(5) Upon execution of any cooperative agree-

25 ment authorized under this section, the Secretary

1 may transfer to the appropriate non-Federal entity,
2 on a nonreimbursable basis, the funds authorized to
3 be appropriated by section 10(a) for the Rosebud
4 Sioux Rural Water System.

5 “(c) SERVICE AREA.—The service area of the Rose-
6 bud Sioux Rural Water System shall extend to all of Todd
7 County, South Dakota, and to all other territory and lands
8 generally described in the Rosebud Sioux Tribe Municipal,
9 Rural and Industrial Water Needs Assessment, dated July
10 1993, and the Final Engineering Report for the Mni
11 Wiconi Rural Water Supply Project dated May 1993.

12 “(d) CONSTRUCTION REQUIREMENTS.—The pump-
13 ing plants, pipelines, treatment facilities, and other appur-
14 tenant facilities for the Rosebud Sioux Rural Water Sys-
15 tem shall be planned and constructed in a size sufficient
16 to meet the municipal, rural, and industrial water supply
17 requirements of the Rosebud Sioux Tribe and the Lyman-
18 Jones Rural Water System, as generally described in the
19 Rosebud Sioux Tribe Municipal, Rural and Industrial
20 Water Needs Assessment, dated July 1993, and the Final
21 Engineering Report for the Mni Wiconi Rural Water Sup-
22 ply Project dated May 1993, taking into account the ef-
23 fects of the conservation plans described in section 5. The
24 Rosebud Rural Sioux Water System and Lyman-Jones
25 Rural Water System may be interconnected and provided

1 with water service from common facilities. Any joint costs
2 associated with common facilities shall be allocated to the
3 Rosebud Sioux Rural Water System.

4 “(e) TITLE TO SYSTEM.—Title to the Rosebud Sioux
5 Rural Water System shall be held in trust for the Rosebud
6 Sioux Tribe by the United States and shall not be trans-
7 ferred or encumbered without a subsequent Act of Con-
8 gress.

9 “(f) TECHNICAL ASSISTANCE.—The Secretary shall
10 provide such technical assistance as may be necessary to
11 the Rosebud Sioux Tribe to plan, develop, construct, oper-
12 ate, maintain, and replace the Rosebud Sioux Rural Water
13 System, including operation and management training.

14 “(g) APPLICATION OF THE INDIAN SELF-DETER-
15 MINATION AND EDUCATION ASSISTANCE ACT.—Planning,
16 design, construction, and operation of the Rosebud Sioux
17 Rural Water System shall be subject to the Indian Self-
18 Determination and Education Assistance Act (25 U.S.C.
19 450 et seq.).

20 **“SEC. 3B. LOWER BRULE SIOUX RURAL WATER SYSTEM.**

21 “(a) AUTHORIZATION.—The Secretary shall plan, de-
22 sign, construct, operate, maintain, and replace a municipi-
23 pal, rural, and industrial water system, to be known as
24 the Lower Brule Sioux Rural Water System, as generally
25 described in the Final Engineering Report for the Mni

1 Wiconi Rural Water Supply Project, dated May 1993. The
2 Lower Brule Sioux Rural Water System shall consist of—

3 “(1) necessary pumping and treatment facili-
4 ties;

5 “(2) pipelines extending from the points of
6 interconnections with the Oglala Sioux Rural Water
7 Supply System to the Lower Brule Indian Reserva-
8 tion;

9 “(3) facilities to allow for interconnections with
10 the Lyman-Jones Rural Water System;

11 “(4) distribution and treatment facilities to
12 serve the needs of the Lower Brule Indian Reserva-
13 tion, including the purchase, improvement, and re-
14 pair of existing water systems (including systems
15 owned by individual tribal members and other resi-
16 dents of the Lower Brule Indian Reservation);

17 “(5) appurtenant buildings and property rights;

18 “(6) necessary property and property rights;

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

22 “(8) such other pipelines, pumping plants, and
23 facilities as the Secretary determines to be necessary
24 and appropriate to meet the water supply and eco-
25 nomic, public health, and environmental needs of the

1 reservation, including water storage tanks, water
2 lines, and other facilities for the Lower Brule Sioux
3 Tribe and reservation villages, towns, and municipi-
4 palities.

5 “(b) AGREEMENT WITH NON-FEDERAL ENTITY TO
6 PLAN, DESIGN, CONSTRUCT, OPERATE, AND MAINTAIN
7 THE LOWER BRULE SIOUX RURAL WATER SYSTEM.—

8 “(1) In carrying out subsection (a), the Sec-
9 retary, with the concurrence of the Lower Brule
10 Sioux Tribal Council, shall enter into cooperative
11 agreements with the appropriate non-Federal entity
12 or entities for planning, designing, constructing, op-
13 erating, maintaining, and replacing the Lower Brule
14 Sioux Rural Water System.

15 “(2) Each cooperative agreement entered into
16 under this subsection shall set forth, in a manner
17 acceptable to the Secretary—

18 “(A) the responsibilities of the parties
19 for—

20 “(i) needs assessment, feasibility, and
21 environmental studies;

22 “(ii) engineering and design;

23 “(iii) construction;

24 “(iv) water conservation measures;

25 and

1 “(v) administration of any contracts
2 with respect to this subparagraph;

3 “(B) the procedures and requirements for
4 approval and acceptance of design and con-
5 struction; and

6 “(C) the rights, responsibilities, and liabil-
7 ities of each party to the agreement.

8 “(3) Each cooperative agreement may include
9 provisions for the purchase, improvement, and repair
10 of existing water systems, including systems owned
11 by individual tribal members and other residents lo-
12 cated on the Lower Brule Indian Reservation.

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

22 “(5) Upon execution of any cooperative agree-
23 ment authorized under this section, the Secretary
24 may transfer to the appropriate non-Federal entity,
25 on a nonreimbursable basis, the funds authorized to

1 be appropriated by section 10(a) for the Lower
2 Brule Sioux Rural Water System.

3 “(c) SERVICE AREA.—The service area of the Lower
4 Brule Sioux Rural Water System shall be the boundaries
5 of the Lower Brule Indian Reservation.

6 “(d) CONSTRUCTION REQUIREMENTS.—The pump-
7 ing plants, pipelines, treatment facilities, and other appur-
8 tenant facilities for the Lower Brule Sioux Rural Water
9 System shall be planned and constructed in a size suffi-
10 cient to meet the municipal, rural, and industrial water
11 supply requirements of the Lower Brule Sioux Tribe and
12 the Lyman-Jones Rural Water System, as generally de-
13 scribed in the Final Engineering Report of the Mni Wiconi
14 Rural Water Supply Project, dated May 1993, taking into
15 account the effects of the conservation plans described in
16 section 5. The Lower Brule Sioux Rural Water System
17 and Lyman-Jones Rural Water System may be inter-
18 connected and provided with water service from common
19 facilities. Any joint costs associated with common facilities
20 shall be allocated to the Lower Brule Sioux Rural Water
21 System.

22 “(e) TITLE TO SYSTEM.—Title to the Lower Brule
23 Sioux Rural Water System shall be held in trust for the
24 Lower Brule Sioux Tribe by the United States and shall

1 not be transferred or encumbered without a subsequent
2 Act of Congress.

3 “(f) TECHNICAL ASSISTANCE.—The Secretary shall
4 provide such technical assistance as may be necessary to
5 the Lower Brule Sioux Tribe to plan, develop, construct,
6 operate, maintain, and replace the Lower Brule Sioux
7 Rural Water System, including operation and manage-
8 ment training.

9 “(g) APPLICATION OF THE INDIAN SELF-DETER-
10 MINATION AND EDUCATION ASSISTANCE ACT.—Planning,
11 design, construction, and operation of the Lower Brule
12 Sioux Rural Water System shall be subject to the Indian
13 Self-Determination and Education Assistance Act (25
14 U.S.C. 450 et seq.).”.

15 **SEC. 67. WEST RIVER RURAL WATER SYSTEM AND LYMAN-**
16 **JONES RURAL WATER SYSTEM.**

17 (a) SERVICE AREA.—Section 4(d) is amended by
18 striking the period at the end and inserting “, and the
19 Final Engineering Report dated May 1993.”.

20 (b) INTERCONNECTION OF FACILITIES AND WAIVER
21 OF CHARGES.—Section 4 is amended by redesignating
22 subsection (f) as subsection (g) and inserting after sub-
23 section (e) the following new subsection:

24 “(f) INTERCONNECTION OF FACILITIES AND WAIVER
25 OF CHARGES.—The Secretary may interconnect the

1 Lyman-Jones Rural Water System and the West River
2 Rural Water System with each of the other systems au-
3 thorized under this Act, and to provide for the delivery
4 of water to the West River Rural Water System and
5 Lyman-Jones Rural Water System, without charge or
6 cost, from the Missouri River and through common facili-
7 ties of the Oglala Sioux Rural Water Supply System, the
8 Rosebud Sioux Rural Water System, and the Lower Brule
9 Rural Water System.”.

10 **SEC. 7&. WATER CONSERVATION.**

11 Section 5 is amended by striking “The non-Federal
12 parties (including the Oglala Sioux Tribe)” and inserting
13 “Each non-Federal party (including the Oglala Sioux
14 Tribe, Rosebud Sioux Tribe, and Lower Brule Sioux
15 Tribe)”.

16 **SEC. 89. MITIGATION OF FISH AND WILDLIFE LOSSES.**

17 Section 6 is amended—

18 (1) in subsection (a)—

19 (A) in the heading, by inserting “, ROSE-
20 BUD SIOUX RURAL WATER SYSTEM, LOWER
21 BRULE SIOUX RURAL WATER SYSTEM,” after
22 “SUPPLY SYSTEM”; and

23 (B) by inserting “Rosebud Sioux Rural
24 Water System, Lower Brule Sioux Rural Water
25 System,” after “Supply System,”; and

1 (2) in subsection (b)—

2 (A) by inserting “, all Indian tribes resid-
3 ing on reservations within the State of South
4 Dakota,” after “South Dakota”;

5 (B) by inserting “and terrestrial” after
6 “wildlife”;

7 (C) by striking “Such plans” and inserting
8 “Such recommendations”; and

9 (D) by adding at the end the following:

10 “The Indian tribes shall be afforded an opportunity to re-
11 view and concur within any recommendations affecting
12 their reservations before the recommendations are submit-
13 ted to Congress.”.

14 **SEC. 9. ESTABLISHMENT OF THE OGLALA SIOUX, ROSEBUD**
15 **SIOUX, AND LOWER BRULE SIOUX BIO-DIVER-**
16 **SITY TRUSTS.**

17 The Act is amended by inserting after section 6 the
18 following new sections:

19 **“SEC. 6A. ESTABLISHMENT OF THE OGLALA SIOUX, ROSE-**
20 **BUD SIOUX, AND LOWER BRULE SIOUX BIO-**
21 **DIVERSITY TRUSTS.**

22 “(a) **AUTHORIZATION.**—The Secretary shall make
23 Federal grants to the Oglala Sioux, Rosebud Sioux, and
24 Lower Brule Sioux Bio-Diversity Trusts. The Federal con-
25 tribution shall not exceed \$16,000,000 and shall be paid

1 in 5 annual installments beginning in fiscal year 1995.
2 The grants shall be expended as provided in the Final En-
3 gineering Report for the Mni Wiconi Rural Water Supply
4 Project, dated May 1993, required by section 3(f) of this
5 Act.

6 ~~“(b) ELIGIBILITY REQUIREMENTS FOR FEDERAL~~
7 ~~CONTRIBUTIONS.—Each Trust shall be eligible to receive~~
8 ~~Federal grants under subsection (a) if the Trust—~~

9 ~~“(1) is established and operated as a nonprofit~~
10 ~~corporation under the laws of the Tribe on whose~~
11 ~~reservation it will operate;~~

12 ~~“(2) is incorporated to select and provide fund-~~
13 ~~ing to projects that restore, protect, and enhance~~
14 ~~wildlife and wildlife habitat;~~

15 ~~“(3) is under the direction of a Board of Trust-~~
16 ~~ees that—~~

17 ~~“(A) has the power to manage all the af-~~
18 ~~fairs of the corporation, including administra-~~
19 ~~tion, data collection, and implementation of the~~
20 ~~purposes of the Trust; and~~

21 ~~“(B) is composed of members that do not~~
22 ~~serve on any Federal, tribal, or State legislative~~
23 ~~body, court, agency, commission, or board; and~~

24 ~~“(4) is comprised of not fewer than 3 persons~~
25 ~~or more than 5 persons elected to 3-year, staggered~~

1 terms by the eligible voters of the Tribe on whose
2 reservation the Trust will operate.

3 ~~“(c) OPERATIONAL REQUIREMENTS OF BIO-DIVER-~~
4 ~~SITY TRUSTS.—~~The Oglala Sioux, Rosebud Sioux, and
5 Lower Brule Sioux Bio-Diversity Trusts shall be deemed
6 to be operating in accordance with this section if the fol-
7 lowing conditions are met:

8 “(1) Each Trust shall be operated to select and
9 provide funding to projects that protect, restore, and
10 maintain plant and animal communities and large-
11 scale natural ecosystems in accordance with its cor-
12 porate purposes. Projects eligible for funding include
13 projects that—

14 “(A) reconstitute natural biological diver-
15 sity that has been diminished;

16 “(B) assist the recovery of species popu-
17 lations, communities, and ecosystems that are
18 unable to survive on-site without intervention;

19 “(C) allow reintroduction and reoccupation
20 of ecosystems by native flora and fauna;

21 “(D) control or eliminate exotic flora and
22 fauna that are damaging natural ecosystems;

23 “(E) restore natural habitat for the re-
24 cruitment and survival of fish, waterfowl, and
25 other wildlife;

1 ~~“(F) provide additional conservation values~~
2 ~~to Indian trust lands;~~

3 ~~“(G) add to structural and compositional~~
4 ~~values of existing preserves or enhance the via-~~
5 ~~bility, defensibility, and management of pre-~~
6 ~~serves; and~~

7 ~~“(H) restore natural hydrological effects~~
8 ~~including sediment and erosion control, drain-~~
9 ~~age, percolation, and other water quality im-~~
10 ~~provement capacity.~~

11 ~~“(2) Each Trust shall be managed in a fiscally~~
12 ~~responsible fashion by investing in private and public~~
13 ~~financial vehicles approved by the Secretary with the~~
14 ~~goal of producing income and preserving principal.~~

15 ~~“(3) Trust funds shall be deposited in financial~~
16 ~~institutions other than those used by the Oglala~~
17 ~~Sioux Tribe, Rosebud Sioux Tribe, and Lower Brule~~
18 ~~Sioux Tribe for their general funds where—~~

19 ~~“(A) the principal will be inviolate, but in-~~
20 ~~come from the principal will be used to accom-~~
21 ~~plish the goals of the trust; and~~

22 ~~“(B) expenditures of all funds from each~~
23 ~~trust account are based on an annual budget~~
24 ~~approved by the Secretary.~~

1 “(4) Not less than 10 percent of the interest
2 earned each year from the principal in each account
3 shall be added to the principal.

4 “(d) RESTRICTION ON LOCATION OF PROJECTS TO
5 BE FUNDED BY TRUST.—Projects eligible for funding
6 under this section must be located within the service areas
7 of the Oglala Sioux Rural Water Supply System, the Rose-
8 bud Sioux Rural Water System, or the Lower Brule Sioux
9 Rural Water System.

10 “(e) REPORTING REQUIREMENTS ON TRUST.—The
11 Secretary shall annually report on the operation and man-
12 agement of each Trust to the Committee Appropriations,
13 the Committee on Energy and Natural Resources, and the
14 Committee on Indian Affairs of the Senate, and the Com-
15 mittee on Appropriations and the Committee on Natural
16 Resources of the House of Representatives.

17 **“SEC. 6B. ESTABLISHMENT OF THE WEST RIVER AND**
18 **LYMAN-JONES BIO-DIVERSITY TRUSTS.**

19 “(a) AUTHORIZATION.—The Secretary shall make a
20 Federal contribution in the form of a Federal grant to
21 the West River and Lyman-Jones Bio-Diversity Trusts.
22 The Federal contribution shall not exceed \$9,000,000 and
23 shall be paid in 5 annual installments beginning in fiscal
24 year 1995.

1 ~~“(b) ELIGIBILITY REQUIREMENTS FOR FEDERAL~~
2 ~~CONTRIBUTIONS.—The West River and Lyman-Jones~~
3 ~~Bio-Diversity Trusts shall be eligible to receive Federal~~
4 ~~contributions pursuant to subsection (a) if they comply~~
5 ~~with the following requirements:~~

6 ~~“(1) Each Trust shall be established and oper-~~
7 ~~ated as a nonprofit corporation under the laws of~~
8 ~~the State of South Dakota.~~

9 ~~“(2) The corporate purposes of each Trust shall~~
10 ~~be to select and provide funding to projects that re-~~
11 ~~store, protect, and enhance wildlife and wildlife habi-~~
12 ~~tat within the West River and Lyman-Jones service~~
13 ~~areas described in section 4(d) of this Act.~~

14 ~~“(3) Each Trust shall be under the direction of~~
15 ~~a Board of Trustees having the power to manage all~~
16 ~~the affairs of the corporation, including administra-~~
17 ~~tion, data collection, and implementation of the pur-~~
18 ~~poses of the Trust.~~

19 ~~“(4) The Board of each Trust shall be com-~~
20 ~~prised of not fewer than 3 nor more than 10 persons~~
21 ~~appointed by the West River Rural Water System~~
22 ~~and Lyman-Jones Rural Water System recognized in~~
23 ~~section 4 of this Act.~~

24 ~~“(c) OPERATIONAL REQUIREMENTS OF TRUSTS.—~~
25 ~~The West River and Lyman-Jones Bio-Diversity Trusts~~

1 shall be deemed to be operating in accordance with this
2 section if the following conditions are met:

3 ~~“(1) Each Trust shall be operated to select and~~
4 ~~provide funding to projects that protect, restore, and~~
5 ~~maintain plant and animal communities and large-~~
6 ~~scale natural ecosystems in accordance with its cor-~~
7 ~~porate purposes. Projects eligible for funding by the~~
8 ~~Trust include those that—~~

9 ~~“(A) reconstitute natural biological diver-~~
10 ~~sity that has been diminished;~~

11 ~~“(B) assist the recovery of species popu-~~
12 ~~lations, communities, and ecosystems that are~~
13 ~~unable to survive on site without intervention;~~

14 ~~“(C) allow reintroduction and reoccupation~~
15 ~~by native flora and fauna;~~

16 ~~“(D) control or eliminate exotic flora and~~
17 ~~fauna that are damaging natural ecosystems;~~

18 ~~“(E) restore natural habitat for the re-~~
19 ~~ruitment and survival of fish, waterfowl, and~~
20 ~~other wildlife;~~

21 ~~“(F) add to structural and compositional~~
22 ~~values of existing preserves or enhance the via-~~
23 ~~bility, defensibility, and management of pre-~~
24 ~~serves; and~~

1 ~~“(G) restore natural hydrological effects~~
2 ~~including sediment and erosion control drain-~~
3 ~~age, percolation, and other water quality im-~~
4 ~~provement capacity.~~

5 ~~“(2) Each trust shall be managed in a fiscally~~
6 ~~responsible fashion by investing in private and public~~
7 ~~financial vehicles approved by the Secretary with the~~
8 ~~goal of producing income and preserving principal;~~
9 ~~and the principal of each trust will be inviolate, but~~
10 ~~income from the principal will be used to accomplish~~
11 ~~the goals of the trust.~~

12 ~~“(3) Expenditures of all funds from each trust~~
13 ~~account shall be based on an annual budget ap-~~
14 ~~proved by the Secretary.~~

15 ~~“(4) Not less than 10 percent of the interest~~
16 ~~earned each year from the principal in each account~~
17 ~~shall be added to the principal.~~

18 ~~“(d) RESTRICTION ON LOCATION OF PROJECTS TO~~
19 ~~BE FUNDED BY TRUSTS.—Projects eligible for funding~~
20 ~~under this section must be located within the service areas~~
21 ~~of the West River Rural Water System and the Lyman-~~
22 ~~Jones Rural Water System.~~

23 ~~“(e) REPORTING REQUIREMENTS ON TRUSTS.—The~~
24 ~~Secretary shall annually report on the operation and man-~~
25 ~~agement of each Trust to the Committee on Energy and~~

1 Natural Resources and the Committee on Appropriations
2 of the Senate, and the Committee on Natural Resources
3 and the Committee on Appropriations of the House of
4 Representatives.”.

5 **SEC. 10. PROHIBITION OF USE OF FUNDS FOR IRRIGATION**
6 **PURPOSES.**

7 Section 7 is amended by inserting “the Rosebud
8 Sioux Rural Water System, the Lower Brule Rural Water
9 Supply System,” after “Supply System,”.

10 **SEC. 11. RULE OF CONSTRUCTION.**

11 Section 8 is amended—

12 (1) by inserting “, the Rosebud Sioux Tribe,
13 and the Lower Brule Sioux Tribe” after “Tribe”;
14 and

15 (2) by striking “or construct” and inserting
16 “construct, maintain, or replace”.

17 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

18 Section 10 is amended to read as follows:

19 **“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

20 **“(a) PLANNING, DESIGN, AND CONSTRUCTION.—**

21 There are authorized to be appropriated \$263,241,000 for
22 the planning, design, and construction of the Oglala Sioux
23 Rural Water Supply System, the Rosebud Sioux Rural
24 Water System, the Lower Brule Sioux Rural Water Sys-
25 tem, the West River Rural Water Supply System, and the

1 Lyman-Jones Rural Water System described in sections
2 3, 3A, 3B, and 4. Such funds are authorized to be appro-
3 priated only through the end of the year 2003. The funds
4 authorized to be appropriated by the first sentence of this
5 section, less any amounts previously obligated for the Sys-
6 tems, may be increased or decreased by such amounts as
7 may be justified by reason of ordinary fluctuations in de-
8 velopment costs incurred after October 1, 1992, as indi-
9 cated by engineering costs indices applicable for the type
10 of construction involved.

11 “(b) OPERATION AND MAINTENANCE OF OGLALA
12 SIOUX RURAL WATER SUPPLY SYSTEM, ROSEBUD SIOUX
13 RURAL WATER SYSTEM, AND LOWER BRULE SIOUX
14 RURAL WATER SYSTEM.—There are authorized to be ap-
15 propriated such sums as may be necessary for the oper-
16 ation and maintenance of the Oglala Sioux Rural Water
17 Supply System, Rosebud Sioux Rural Water System, and
18 Lower Brule Sioux Rural Water System. *The operation*
19 *and maintenance expenses associated with water deliveries*
20 *to the West River and Lyman-Jones Rural Water Systems*
21 *are a non-Federal responsibility and for such deliveries the*
22 *Secretary shall enter into a contract with the West River*
23 *and Lyman-Jones Systems for the payment of an annual*
24 *operation and maintenance fee. Such fee shall be based on*
25 *the incremental operation and maintenance costs for water*

1 *actually delivered each year to the West River and Lyman-*
 2 *Jones Rural Water Systems. Such operation and mainte-*
 3 *nance payments shall be increased or decreased by such*
 4 *amounts as may be justified by reason of ordinary fluctua-*
 5 *tions as indicated by indices applicable to comparable re-*
 6 *gional rural water supply systems for the type of operation*
 7 *and maintenance involved.*

8 ~~“(c) BIO-DIVERSITY TRUSTS.—There is authorized~~
 9 ~~to be appropriated \$26,500,000 for the establishment, op-~~
 10 ~~eration, and maintenance of the bio-diversity trusts estab-~~
 11 ~~lished under sections 6A and 6B of this Act. The Sec-~~
 12 ~~retary shall utilize \$1,500,000 of the funds authorized~~
 13 ~~under this subsection as start-up funds for the trusts. The~~
 14 ~~funds authorized by this subsection may be increased by~~
 15 ~~such amounts as may be justified by reason of ordinary~~
 16 ~~fluctuations in development costs incurred after January~~
 17 ~~1, 1994.~~

18 ~~“(d)(c). WASTEWATER DISPOSAL SYSTEMS FEA-~~
 19 ~~SIBILITY STUDIES.—There is authorized to be appro-~~
 20 ~~priated such sums as may be necessary to complete the~~
 21 ~~feasibility studies authorized by section 12(c).”.~~

22 **SEC. 13. WATER RIGHTS.**

23 Section 11(5) is amended—

24 (1) by inserting “rights, benefits, privileges or
 25 claims, including” after “affect any”;

1 (2) by inserting “the Rosebud Sioux Tribe, and
2 the Lower Brule Sioux Tribe,” after “Tribe,” the
3 first place it appears;

4 (3) by striking “the Pine Ridge Indian Reserva-
5 tion” and inserting “their respective reservations”;
6 and

7 (4) by striking “Tribe,” the second place it ap-
8 pears and inserting “Tribe, the Rosebud Sioux
9 Tribe, the Lower Brule Sioux Tribe,”.

10 **SEC. 14. FEASIBILITY STUDIES.**

11 (a) ALTERNATE USES.—Section 3 of Public Law 97-
12 273, as amended by section 12(b) of the Mni Wiconi
13 Project Act of 1988, is amended by inserting “and all In-
14 dian tribes residing on reservations within the State of
15 South Dakota,” after “South Dakota,” the first place it
16 appears.

17 (b) WASTEWATER DISPOSAL SYSTEMS.—Section 12
18 is amended by adding at the end the following new sub-
19 section:

20 “(c) WASTEWATER DISPOSAL SYSTEMS.—(1) The
21 Secretary shall, in consultation with the Oglala Sioux
22 Tribe, the Rosebud Sioux Tribe, and the Lower Brule
23 Sioux Tribe, conduct feasibility studies on the need to de-
24 velop wastewater disposal facilities and systems, and reha-
25 bilitate existing wastewater disposal facilities and systems,

1 on the Pine Ridge Indian Reservation, Rosebud Indian
2 Reservation, and Lower Brule Indian Reservation, and to
3 report to the Congress the findings of such studies with
4 the recommendations of the Secretary.

5 “(2) The feasibility studies authorized under this
6 subsection shall be completed and presented to the Con-
7 gress not later than 1 year after the date that funds are
8 first made available by the Secretary to complete the stud-
9 ies.”.

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