

111TH CONGRESS
1ST SESSION

H. R. 4119

To authorize the construction of the Dry-Redwater Regional Water Authority System in the State of Montana and a portion of McKenzie County, North Dakota, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2009

Mr. REHBERG introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To authorize the construction of the Dry-Redwater Regional Water Authority System in the State of Montana and a portion of McKenzie County, North Dakota, 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 “Dry-Redwater Re-

5 gional Water Authority System Act of 2009”.

6 **SEC. 2. FINDINGS; PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

1 (1) there are insufficient available supplies of
2 safe water to meet the minimum health and safety
3 standards of the citizens of—

4 (A) Dawson, Garfield, McCone, Prairie,
5 and Richland Counties of the State; and

6 (B) McKenzie County, North Dakota;

7 (2) McCone and Garfield Counties of the State
8 were—

9 (A) directly and physically impacted when
10 the Fort Peck Dam was constructed; and

11 (B) to receive certain impact benefits as a
12 result of the Pick-Sloan program; and

13 (3) the water that is contained in the Fort Peck
14 Dam reservoir is managed for purposes relating to—

15 (A) flood control;

16 (B) the production of hydroelectric power;

17 (C) irrigation;

18 (D) the maintenance of a public water sup-
19 ply;

20 (E) the conservation of fish and wildlife;

21 (F) recreation; and

22 (G) the improvement of water quality.

23 (b) PURPOSE.—The purpose of this Act is to ensure
24 a safe and adequate municipal, rural, and industrial water
25 supply for the citizens of—

1 (1) Dawson, Garfield, McCone, Prairie, and
2 Richland Counties of the State; and

3 (2) McKenzie County, North Dakota.

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

6 (1) ADMINISTRATOR.—The term “Adminis-
7 trator” means the Administrator of the Western
8 Area Power Administration.

9 (2) AUTHORITY.—The term “Authority”
10 means—

11 (A) the Dry-Redwater Regional Water Au-
12 thority, a publicly owned nonprofit water au-
13 thority formed in accordance with Mont. Code
14 Ann. 75–6–302 (2007); and

15 (B) any nonprofit successor entity.

16 (3) PICK-SLOAN PROGRAM.—The term “Pick-
17 Sloan program” means the Pick-Sloan Missouri
18 Basin Program (authorized by section 9 of the Act
19 of December 22, 1944; commonly known as the
20 “Flood Control Act of 1944”; 58 Stat. 891, chapter
21 665).

22 (4) SECRETARY.—The term “Secretary” means
23 the Secretary of the Interior.

24 (5) STATE.—The term “State” means the State
25 of Montana.

1 (6) WATER SYSTEM.—The term “Water Sys-
2 tem” means the Dry-Redwater Regional Water Au-
3 thority System authorized under section 4 for—

4 (A) Dawson, Garfield, McCone, Prairie,
5 and Richland Counties of the State; and

6 (B) McKenzie County, North Dakota.

7 (7) NON-FEDERAL DISTRIBUTION SYSTEM.—
8 The term “non-Federal distribution system” means
9 the local electric service facility provider.

10 (8) INTEGRATED SYSTEM.—The term “inte-
11 grated system” means the transmission system
12 owned by Western Area Power Administration,
13 Basin Electric Power Cooperative and Heartland
14 Consumers Power District and administered by
15 Western Area Power Administration.

16 **SEC. 4. DRY-REDWATER REGIONAL WATER AUTHORITY SYS-**
17 **TEM.**

18 (a) COOPERATIVE AGREEMENT.—

19 (1) IN GENERAL.—The Secretary shall enter
20 into a cooperative agreement with the Authority to
21 provide Federal assistance for the planning, design,
22 and construction of the Water System.

23 (2) REQUIREMENTS.—A cooperative agreement
24 entered into under paragraph (1) shall specify, in a

1 manner that is acceptable to the Secretary and the
2 Authority—

3 (A) the responsibilities of each party to the
4 cooperative agreement relating to the Water
5 System, including—

6 (i) the final engineering report;

7 (ii) an environmental and cultural re-
8 source study;

9 (iii) engineering and design;

10 (iv) construction;

11 (v) water conservation measures; and

12 (vi) administration of contracts relat-
13 ing to the performance of the activities de-
14 scribed in clauses (i) through (v);

15 (B) any procedure or requirement relating
16 to—

17 (i) the carrying out of each activity
18 described in subparagraph (A); and

19 (ii) the approval and acceptance of the
20 design and construction of the Water Sys-
21 tem; and

22 (C) the rights, responsibilities, and liabil-
23 ities of each party to the cooperative agreement.

24 (b) USE OF FEDERAL FUNDS.—

25 (1) FEDERAL SHARE.—

1 (A) IN GENERAL.—The Federal share of
2 the costs relating to the planning, design, and
3 construction of the Water System shall not ex-
4 ceed 75 percent of the total cost of the Water
5 System.

6 (B) LIMITATION.—Amounts made avail-
7 able under subparagraph (A) shall not be re-
8 turnable or reimbursable under the reclamation
9 laws.

10 (2) COMPLIANCE WITH COOPERATIVE AGREE-
11 MENT.—Federal funds made available to carry out
12 this section shall be obligated and expended in ac-
13 cordance with a cooperative agreement entered into
14 by the Secretary under subsection (a).

15 (c) COMPONENTS.—Components of the Water Sys-
16 tem facilities for which Federal funds may be obligated
17 and expended under this section shall include—

18 (1) facilities relating to—

19 (A) water intake;

20 (B) water pumping;

21 (C) water treatment; and

22 (D) water storage;

23 (2) transmission pipelines and pumping sta-
24 tions;

1 (3) appurtenant buildings, maintenance equip-
2 ment, and access roads;

3 (4) any interconnection facility that connects a
4 pipeline of the Water System to a pipeline of a pub-
5 lic water system;

6 (5) distribution, pumping, and storage facilities
7 that—

8 (A) serve the needs of citizens who use
9 public water systems;

10 (B) are in existence on the date of the en-
11 actment of this Act; and

12 (C) may be purchased, improved, and re-
13 paired in accordance with a cooperative agree-
14 ment entered into by the Secretary under sub-
15 section (a)(1);

16 (6) electrical power transmission and distribu-
17 tion facilities required for the operation and mainte-
18 nance of the Water System;

19 (7) any other facility or service required for the
20 development of a rural water distribution system, as
21 determined by the Secretary; and

22 (8) any property or property right required for
23 the construction or operation of a facility described
24 in this subsection.

1 (d) SERVICE AREA.—The service area of the Water
2 System shall be—

3 (1) the area of Garfield and McCone Counties
4 in the State;

5 (2) the area west of the Yellowstone River in
6 Dawson and Richland Counties in the State;

7 (3) the area including, and north of, Township
8 15N in Prairie County in the State; and

9 (4) the portion of McKenzie County, North Da-
10 kota, that includes all land that is located west of
11 the Yellowstone River in the State of North Dakota.

12 (e) LIMITATION ON AVAILABILITY OF CONSTRUCTION
13 FUNDS.—The Secretary shall not obligate funds for con-
14 struction of the Water System until the date on which the
15 last of the following occurs:

16 (1) The Water System complies with each re-
17 quirement under the National Environmental Policy
18 Act of 1969 (42 U.S.C. 4321 et seq.).

19 (2) 90 days after the date of receipt by Con-
20 gress of the final engineering report described in
21 subsection (a)(2)(A)(i) that is approved by the Sec-
22 retary.

23 (3) The Secretary publishes a written finding
24 that the water conservation plan developed pursuant

1 to section 6 contains water conservation measures
2 for the operation of the Water System that are—

- 3 (A) prudent;
4 (B) reasonable; and
5 (C) economically and financially feasible.

6 (f) LIMITATION ON USE OF FEDERAL FUNDS.—

7 (1) IN GENERAL.—Any cost relating to the op-
8 eration, maintenance, or replacement of the Water
9 System—

- 10 (A) shall not be a Federal responsibility;
11 and
12 (B) shall be paid by the Water System.

13 (2) FEDERAL FUNDS.—The Secretary shall not
14 obligate or expend Federal funds for the operation,
15 maintenance, or replacement of the Water System.

16 (g) TITLE TO THE WATER SYSTEM.—Title to the
17 Water System shall be held by the Authority.

18 **SEC. 5. USE OF POWER FROM PICK-SLOAN PROGRAM.**

19 (a) FINDINGS.—Congress finds that McCone and
20 Garfield Counties in the State were designated—

21 (1) as impact counties during the period in
22 which the Fort Peck Dam was constructed; and

23 (2) to receive impact mitigation benefits in ac-
24 cordance with the Pick-Sloan program.

25 (b) AVAILABILITY OF POWER.—

1 (1) IN GENERAL.—Subject to paragraph (2),
2 the Administrator shall make available to the Water
3 System a quantity of power required, up to one and
4 one-half megawatt capacity, to meet the pumping
5 and incidental operation requirements of the Water
6 System during the period beginning May 1 and end-
7 ing on October 31 of each year from the following
8 Water System facilities—

9 (A) from the water intake facilities; and

10 (B) through all pumping stations, water
11 treatment facilities, reservoirs, storage tanks,
12 and pipelines up to the point of delivery of
13 water by the water supply system to all storage
14 reservoirs and tanks and each entity that dis-
15 tributes water at retail to individual users.

16 (2) ELIGIBILITY.—The Water System shall be
17 eligible to receive power under paragraph (1) if the
18 Water System—

19 (A) operates on a not-for-profit basis; and

20 (B) is constructed pursuant to a coopera-
21 tive agreement entered into by the Secretary
22 under section 4(a).

23 (3) RATE.—The Administrator shall make
24 available the power described in paragraph (1) at
25 the firm power rate.

1 (4) **ADDITIONAL POWER.**—If power, in addition
2 to that made available to the Water System in para-
3 graph (1) is required to meet the pumping require-
4 ments of the Dry-Redwater Regional Water Author-
5 ity, the Administrator may purchase the necessary
6 additional power at the best available rate. The costs
7 of such purchases shall be reimbursed to the Admin-
8 istrator by the Dry-Redwater Regional Water Au-
9 thority.

10 (5) **RESPONSIBILITY FOR POWER CHARGES.**—
11 The Authority shall be responsible for the payment
12 of the power charge described in paragraph (3) and
13 non-Federal delivery costs described in paragraph 6.

14 (6) **TRANSMISSION ARRANGEMENTS.**—The
15 Water System shall be responsible for all non-Fed-
16 eral transmission and distribution system delivery
17 and service arrangements. The Water System shall
18 be responsible for funding any transmission up-
19 grades, if required, to the Integrated System nec-
20 essary to deliver power to the Water System.

21 **SEC. 6. WATER CONSERVATION PLAN.**

22 (a) **IN GENERAL.**—The Authority shall develop a
23 water conservation plan containing—

24 (1) a description of water conservation objec-
25 tives;

1 (2) a description of appropriate water conserva-
2 tion measures; and

3 (3) a time schedule for carrying out the meas-
4 ures described in paragraph (2) and this Act to meet
5 the water conservation objectives described in para-
6 graph (1).

7 (b) DESIGN REQUIREMENT.—The water conservation
8 plan developed under subsection (a) shall be designed to
9 ensure that users of water provided by the Water System
10 will use the best practical technology and management
11 techniques to conserve water.

12 (c) PUBLIC PARTICIPATION.—Section 210(c) of the
13 Reclamation Reform Act of 1982 (43 U.S.C. 390jj(e))
14 shall apply to each activity carried out under this Act.

15 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

16 (a) WATER SYSTEM.—There is authorized to be ap-
17 propriated to carry out the planning, design, and construc-
18 tion of the Water System a total of \$115,116,000 for fis-
19 cal years 2011 through 2021.

20 (b) COST INDEXING.—The amount authorized to be
21 appropriated under subsection (a) may be increased or de-
22 creased in accordance with ordinary fluctuations in devel-
23 opment costs incurred after January 1, 2008, as indicated
24 by any available engineering cost indices applicable to con-

- 1 struction activities that are similar to the construction of
- 2 the Water System.

