

## **1. FORT PECK RESERVATION RURAL WATER SYSTEM ACT OF 2000; PL 106-382**

The Fort Peck Reservation Rural Water System Act of 2000 (PL 106-382, 114 Stat. 1451) is presented as Exhibit A to this Chapter. Exhibit B provides the legislative history. Reference will be made to these documents throughout the chapters herein. The Final Engineering Report (FER) is a logical repository for the basic project authority.

Several of the subjects in PL 106-382 are presented here for further discussion and clarity. Figure 1-1 shows the location of the project, and Figure 1-2 shows the layout of the Fort Peck Preservation Rural Water System and provides distinction between the Assiniboine and Sioux and Dry Prairie Rural Water Systems. Figure 1-3 shows the sizing of the major pipelines that carry water through the two service areas of the project for distribution to branch lines. The pipelines shown on Figure 1-3 within the Fort Peck Indian Reservation are used in common by both systems.

Section 4 (c) provides for a cooperative agreement between the Secretary (of Interior) and the Executive Board of the Assiniboine and Sioux Tribes for the planning, design, construction, operation, maintenance and replacement of the Assiniboine and Sioux Rural Water System. Mutual agreement between the parties on their respective roles for project activities must be reached. The Tribes can exercise their prerogatives to engage directly in project activities through the Indian Self-Determination and Education Assistance Act (PL 93-638) as directed by Section 4 (i) of PL 106-382. Under this scenario, the Tribes would be primarily responsible for project activities, and the Secretary would have an oversight role. Bureau of Reclamation will have responsibility on behalf of the Secretary for oversight of planning, design and construction. The Assiniboine and Sioux Rural Water System is authorized to receive annual appropriations for operation, maintenance and replacement through the Bureau of Indian Affairs (Section 9 (a) (2)). Therefore, the Bureau of Indian Affairs will have responsibility on behalf of the Secretary for post-construction activities.

Similarly, the Secretary will develop a cooperative agreement with Dry Prairie for planning, design and construction of the Dry Prairie Rural Water System (Section 5 (a)). Dry Prairie will be fully responsible for all operation, maintenance and replacement of its system; and, therefore, no cooperative agreement is required for those functions and no federal funds will be provided (Section 5 (g.) (1)).

Project activities beyond the planning (pre-construction) phase require that this FER is approved by the Secretary and thereafter resides with Congress for 90 days. Additional requirements to be met before the Secretary can obligate funds for construction include satisfaction of the requirements of the National Environmental Policy Act (NEPA) and the publishing of a written finding by the Secretary that the water conservation plan includes reasonable and prudent water conservation measures that have been proven to be economically and financially sound. These provisions apply to both the Assiniboine and Sioux Rural Water System (Section 4 (e.)) and Dry Prairie (Section 5 (e)).

Figure 1-1

Figure 1-2

Figure 1-3

While not a requirement of PL 106-382, Dry Prairie must also meet the requirements of the Montana Environmental Policy Act (MEPA). The requirements of the State of Montana for environmental analysis are compatible and do not conflict with NEPA requirements. The satisfaction of NEPA requirements, with minor modifications, is expected to satisfy MEPA requirements.

The Federal share of the cost of the Assiniboine and Sioux Rural Water System is \$124 million (October 1998 dollars) for planning, design and construction (Section 9 (a)) and the federal share will be funded through annual appropriations to the Bureau of Reclamation on a non-reimbursable basis (Section 4 (j.) (1)). The Federal share of the cost of the Dry Prairie Rural Water System is \$51 million (Section 9 (b.)). This Federal share is 76% (Section 5 (2)) of the total cost of Dry Prairie construction (\$67.95 million). Federal funding is subject to cost indexing to reflect increases needed to overcome inflation in construction costs after October 1, 1998 (Section 9 (c)). The Montana Revised Statutes, cited above, provide for equal sharing of the \$16.95 million non-federal costs between the State and Dry Prairie (MRS 96-7-15). The statutory construction schedule (Sections 9 (a) and (b.)) is a period of 10 fiscal years (FY 2002 through FY 2011).

Title to the Assiniboine and Sioux Rural Water System will be held in trust by the United States on behalf of the Assiniboine and Sioux Tribes (Section 4 (f.)), and title to the Dry Prairie Rural Water System will be held by that entity (Section 5 (h)).

Water rights are not to be affected by the authorizing legislation or the implementation of the project (Section 8). The Assiniboine and Sioux Tribes have rights to the use of water in the Missouri River, recognized by compact with the State of Montana, with a priority date of not later than 1888. The water rights held by the Tribes total nearly one million acre-feet annually, significantly greater than the 6,200 acre-feet annually required by the Tribes and Dry Prairie. The Tribes, in seeking to implement a regional water project, have made water available to Dry Prairie from their compact water right. There are no costs for use of the Tribes' water rights that are separate, different from, or in addition to the normal costs of operation and maintenance necessary to deliver treated water to Dry Prairie. If Dry Prairie were to obtain a separate, junior water right, subject to instream flow rights of the State of Montana, the water right would be subject to shortages.

The cooperative agreement between the Secretary and Dry Prairie for Federal assistance for the planning, design and construction of the Dry Prairie system provides for concurrence by the Assiniboine and Sioux Tribes (Section 5 (c) (1)). A separate provision between the Secretary and Dry Prairie for delivery of water to Dry Prairie (Section 5 (f.)) contemplates a "water service agreement" between the Tribes, Dry Prairie and the Secretary (Bureau of Indian Affairs) in which the parties will agree contractually to interconnect Dry Prairie to the Assiniboine and Sioux Rural Water System and deliver Tribes' Missouri River water on a dependable basis in accordance with Safe Drinking Water Act requirements.

The parties have undertaken to develop an adequate contractual agreement for water service to Dry Prairie that assures satisfactory delivery and provides for Secretarial support if water delivery falls short of standards for reliability or Safe Drinking Water Act requirements in the same manner as the Secretary is empowered to intervene in the operation and maintenance of the Assiniboine and Sioux Rural Water System if, for unknown reasons, the System does not meet conditions acceptable to the Secretary for fulfilling the obligations of the United States to the Fort Peck Tribes (Section 4 (c) (4) (B)).

Pick-Sloan power will be made available to the project at the firm power rate (approximately 15 mills per kilowatt hour, \$0.015/kwh, composite rate in 2000) with capacity and energy sufficient to meet pumping and incidental operational requirements of the Fort Peck Reservation Rural Water System (Section 6 (a)). This power will be derived from future irrigation and drainage pumping for the Pick-Sloan Missouri Basin Program, which ensures the firm power rate during the irrigation season (April through September). In the remaining months of the year, the Western Area Power Administration may purchase additional power at the best available rates (Section 6 (d.)). Costs of power will be borne by Dry Prairie within its system and by the Bureau of Indian Affairs as part of its operation and maintenance funding responsibilities for the Assiniboine and Sioux Rural Water System.

**EXHIBIT A**

**FORT PECK RESERVATION RURAL WATER SYSTEM ACT OF 2000  
PL 106-382**

Public Law 106-382  
106th Congress

An Act

To authorize construction of the Fort Peck Reservation Rural Water System in the State of Montana, and for other purposes.

Oct. 27, 2000

[S. 624]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Fort Peck Reservation Rural Water System Act of 2000”.

Fort Peck  
Reservation  
Rural Water  
System Act of  
2000.

**SEC. 2. PURPOSES.**

The purposes of this Act are—

- (1) to ensure a safe and adequate municipal, rural, and industrial water supply for the residents of the Fort Peck Indian Reservation in the State of Montana; and
- (2) to assist the citizens of Roosevelt, Sheridan, Daniels, and Valley Counties in the State, outside the Fort Peck Indian Reservation, in developing safe and adequate municipal, rural, and industrial water supplies.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) **ASSINIBOINE AND SIOUX RURAL WATER SYSTEM.**—The term “Assiniboine and Sioux Rural Water System” means the rural water system within the Fort Peck Indian Reservation authorized by section 4.

(2) **DRY PRAIRIE RURAL WATER SYSTEM.**—The term “Dry Prairie Rural Water System” means the rural water system authorized by section 5 in the Roosevelt, Sheridan, Daniels, and Valley Counties of the State.

(3) **FORT PECK RESERVATION RURAL WATER SYSTEM.**—The term “Fort Peck Reservation Rural Water System” means the Assiniboine and Sioux Rural Water System and the Dry Prairie Rural Water System.

(4) **FORT PECK TRIBES.**—The term “Fort Peck Tribes” means the Assiniboine and Sioux Indian Tribes within the Fort Peck Indian Reservation.

(5) **PICK-SLOAN.**—The term “Pick-Sloan” means the Pick-Sloan Missouri River Basin program (authorized by section 9 of the Act entitled “An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes”, approved December 22, 1944 (commonly known as the “Flood Control Act of 1944”) (58 Stat. 891)).

(6) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(7) STATE.—The term “State” means the State of Montana.

**SEC. 4. ASSINIBOINE AND SIOUX RURAL WATER SYSTEM.**

(a) AUTHORIZATION.—The Secretary shall plan, design, construct, operate, maintain, and replace a municipal, rural, and industrial water system, to be known as the “Assiniboine and Sioux Rural Water System”, as generally described in the report required by subsection (g)(2).

(b) COMPONENTS.—The Assiniboine and Sioux Rural Water System shall consist of—

(1) pumping and treatment facilities located along the Missouri River within the boundaries of the Fort Peck Indian Reservation;

(2) pipelines extending from the water treatment plant throughout the Fort Peck Indian Reservation;

(3) distribution and treatment facilities to serve the needs of the Fort Peck Indian Reservation, including—

(A) public water systems in existence on the date of the enactment of this Act that may be purchased, improved, and repaired in accordance with the cooperative agreement entered into under subsection (c); and

(B) water systems owned by individual tribal members and other residents of the Fort Peck Indian Reservation;

(4) appurtenant buildings and access roads;

(5) all property and property rights necessary for the facilities described in this subsection;

(6) electrical power transmission and distribution facilities necessary for services to Fort Peck Reservation Rural Water System facilities; and

(7) such other pipelines, pumping plants, and facilities as the Secretary determines to be appropriate to meet the water supply, economic, public health, and environmental needs of the Fort Peck Indian Reservation, including water storage tanks, water lines, and other facilities for the Fort Peck Tribes and the villages, towns, and municipalities in the Fort Peck Indian Reservation.

(c) COOPERATIVE AGREEMENT.—

(1) IN GENERAL.—The Secretary shall enter into a cooperative agreement with the Fort Peck Tribal Executive Board for planning, designing, constructing, operating, maintaining, and replacing the Assiniboine and Sioux Rural Water System.

(2) MANDATORY PROVISIONS.—The cooperative agreement under paragraph (1) shall specify, in a manner that is acceptable to the Secretary and the Fort Peck Tribal Executive Board—

(A) the responsibilities of each party to the agreement for—

(i) needs assessment, feasibility, and environmental studies;

(ii) engineering and design;

(iii) construction;

(iv) water conservation measures; and

(v) administration of contracts relating to performance of the activities described in clauses (i) through (iv);

(B) the procedures and requirements for approval and acceptance of the design and construction and for carrying out other activities described in subparagraph (A); and

(C) the rights, responsibilities, and liabilities of each party to the agreement.

(3) **OPTIONAL PROVISIONS.**—The cooperative agreement under paragraph (1) may include provisions relating to the purchase, improvement, and repair of water systems in existence on the date of the enactment of this Act, including systems owned by individual tribal members and other residents of the Fort Peck Indian Reservation.

(4) **TERMINATION.**—The Secretary may terminate a cooperative agreement under paragraph (1) if the Secretary determines that—

(A) the quality of construction does not meet all standards established for similar facilities constructed by the Secretary; or

(B) the operation and maintenance of the Assiniboine and Sioux Rural Water System does not meet conditions acceptable to the Secretary that are adequate to fulfill the obligations of the United States to the Fort Peck Tribes.

(5) **TRANSFER.**—On execution of a cooperative agreement under paragraph (1), in accordance with the cooperative agreement, the Secretary may transfer to the Fort Peck Tribes, on a nonreimbursable basis, funds made available for the Assiniboine and Sioux Rural Water System under section 9.

(d) **SERVICE AREA.**—The service area of the Assiniboine and Sioux Rural Water System shall be the area within the boundaries of the Fort Peck Indian Reservation.

(e) **CONSTRUCTION REQUIREMENTS.**—The components of the Assiniboine and Sioux Rural Water System shall be planned and constructed to a size that is sufficient to meet the municipal, rural, and industrial water supply requirements of the service area of the Fort Peck Reservation Rural Water System.

(f) **TITLE TO ASSINIBOINE AND SIOUX RURAL WATER SYSTEM.**—Title to the Assiniboine and Sioux Rural Water System shall be held in trust by the United States for the Fort Peck Tribes and shall not be transferred unless a transfer is authorized by an Act of Congress enacted after the date of the enactment of this Act.

(g) **LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.**—The Secretary shall not obligate funds for construction of the Assiniboine and Sioux Rural Water System until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the Assiniboine and Sioux Rural Water System;

(2) on or after the date that is 90 days after the date of submission to Congress of a final engineering report approved by the Secretary; and

(3) the Secretary publishes a written finding that the water conservation plan developed under section 7 includes prudent and reasonable water conservation measures for the operation of the Assiniboine and Sioux Rural Water System that have been shown to be economically and financially feasible.

(h) **TECHNICAL ASSISTANCE.**—The Secretary shall provide such technical assistance as is necessary to enable the Fort Peck Tribes

Deadline.  
Reports.

Publication.

to plan, design, construct, operate, maintain, and replace the Assiniboine and Sioux Rural Water System, including operation and management training.

(i) APPLICATION OF INDIAN SELF-DETERMINATION ACT.—Planning, design, construction, operation, maintenance, and replacement of the Assiniboine and Sioux Rural Water System within the Fort Peck Indian Reservation shall be subject to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(j) COST SHARING.—

(1) CONSTRUCTION.—The Federal share of the cost of construction of the Assiniboine and Sioux Rural Water System shall be 100 percent, and shall be funded through annual appropriations to the Bureau of Reclamation.

(2) OPERATION AND MAINTENANCE.—The Federal share of the cost of operation and maintenance of the Assiniboine and Sioux Rural Water System shall be 100 percent, and shall be funded through annual appropriations to the Bureau of Indian Affairs.

#### SEC. 5. DRY PRAIRIE RURAL WATER SYSTEM.

(a) PLANNING AND CONSTRUCTION.—

(1) AUTHORIZATION.—The Secretary shall enter into a cooperative agreement with Dry Prairie Rural Water Association Incorporated (or any successor non-Federal entity) to provide Federal funds for the planning, design, and construction of the Dry Prairie Rural Water System in Roosevelt, Sheridan, Daniels, and Valley Counties, Montana, outside the Fort Peck Indian Reservation.

(2) USE OF FEDERAL FUNDS.—

(A) FEDERAL SHARE.—The Federal share of the cost of planning, design, and construction of the Dry Prairie Rural Water System shall be not more than 76 percent, and shall be funded with amounts appropriated from the reclamation fund. Such amounts shall not be returnable or reimbursable under the Federal reclamation laws.

(B) COOPERATIVE AGREEMENTS.—Federal funds made available to carry out this section may be obligated and expended only through a cooperative agreement entered into under subsection (c).

(b) COMPONENTS.—The components of the Dry Prairie Rural Water System facilities on which Federal funds may be obligated and expended under this section shall include—

(1) storage, pumping, interconnection, and pipeline facilities;

(2) appurtenant buildings and access roads;

(3) all property and property rights necessary for the facilities described in this subsection;

(4) electrical power transmission and distribution facilities necessary for service to Dry Prairie Rural Water System facilities; and

(5) other facilities customary to the development of rural water distribution systems in the State, including supplemental water intake, pumping, and treatment facilities.

(c) COOPERATIVE AGREEMENT.—

(1) IN GENERAL.—The Secretary, with the concurrence of the Assiniboine and Sioux Rural Water System Board, shall enter into a cooperative agreement with Dry Prairie Rural

Water Association Incorporated to provide Federal assistance for the planning, design, and construction of the Dry Prairie Rural Water System.

(2) MANDATORY PROVISIONS.—The cooperative agreement under paragraph (1) shall specify, in a manner that is acceptable to the Secretary and Dry Prairie Rural Water Association Incorporated—

(A) the responsibilities of each party to the agreement for—

- (i) needs assessment, feasibility, and environmental studies;
- (ii) engineering and design;
- (iii) construction;
- (iv) water conservation measures; and
- (v) administration of contracts relating to performance of the activities described in clauses (i) through (iv);

(B) the procedures and requirements for approval and acceptance of the design and construction and for carrying out other activities described in subparagraph (A); and

(C) the rights, responsibilities, and liabilities of each party to the agreement.

(d) SERVICE AREA.—

(1) IN GENERAL.—Except as provided in paragraph (2), the service area of the Dry Prairie Rural Water System shall be the area in the State—

- (A) north of the Missouri River;
- (B) south of the border between the United States and Canada;
- (C) west of the border between the States of North Dakota and Montana; and
- (D) east of the western line of range 39 east.

(2) FORT PECK INDIAN RESERVATION.—The service area shall not include the area inside the Fort Peck Indian Reservation.

(e) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for construction of the Dry Prairie Rural Water System until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the Dry Prairie Rural Water System;

(2) on or after the date that is 90 days after the date of submission to Congress of a final engineering report approved by the Secretary; and

(3) the Secretary publishes a written finding that the water conservation plan developed under section 7 includes prudent and reasonable water conservation measures for the operation of the Dry Prairie Rural Water System that have been shown to be economically and financially feasible.

(f) INTERCONNECTION OF FACILITIES.—The Secretary shall—

(1) interconnect the Dry Prairie Rural Water System with the Assiniboine and Sioux Rural Water System; and

(2) provide for the delivery of water to the Dry Prairie Rural Water System from the Missouri River through the Assiniboine and Sioux Rural Water System.

Deadline.  
Reports.

Publication.

(g) **LIMITATION ON USE OF FEDERAL FUNDS.**—

(1) **IN GENERAL.**—The operation, maintenance, and replacement expenses associated with water deliveries from the Assiniboine and Sioux Rural Water System to the Dry Prairie Rural Water System shall not be a Federal responsibility and shall be borne by the Dry Prairie Rural Water System.

(2) **FEDERAL FUNDS.**—The Secretary may not obligate or expend any Federal funds for the operation, maintenance, or replacement of the Dry Prairie Rural Water System.

(h) **TITLE TO DRY PRAIRIE RURAL WATER SYSTEM.**—Title to the Dry Prairie Rural Water System shall be held by Dry Prairie Rural Water Association, Incorporated.

**SEC. 6. USE OF PICK-SLOAN POWER.**

(a) **IN GENERAL.**—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri Basin program, the Western Area Power Administration shall make available, at the firm power rate, the capacity and energy required to meet the pumping and incidental operational requirements of the Fort Peck Reservation Rural Water System.

(b) **QUALIFICATION TO USE PICK-SLOAN POWER.**—For as long as the Fort Peck Reservation rural water supply system operates on a not-for-profit basis, the portions of the water supply project constructed with assistance under this Act shall be eligible to receive firm power from the Pick-Sloan Missouri Basin program established by section 9 of the Act of December 22, 1944 (chapter 665; 58 Stat. 887), popularly known as the Flood Control Act of 1944.

(c) **RECOVERY OF EXPENSES.**—

(1) **ASSINIBOINE AND SIOUX RURAL WATER SYSTEM.**—In the case of the Assiniboine and Sioux Rural Water System, the Western Area Power Administration shall recover expenses associated with power purchases under subsection (a) through a separate power charge sufficient to cover such expenses. Such charge shall be paid fully through the annual appropriations to the Bureau of Indian Affairs.

(2) **DRY PRAIRIE RURAL WATER SYSTEM.**—In the case of the Dry Prairie Rural Water System, the Western Area Power Administration shall recover expenses associated with power purchases under subsection (a) through a separate power charge sufficient to cover expenses. Such charge shall be paid fully by the Dry Prairie Rural Water System.

(d) **ADDITIONAL POWER.**—If power in addition to that made available under subsection (a) is required to meet the pumping requirements of the Fort Peck Reservation Rural Water System, the Administrator of the Western Area Power Administration may purchase the necessary additional power at the best available rate. The costs of such purchases shall be reimbursed to the Administrator according to the terms identified in subsection (c).

**SEC. 7. WATER CONSERVATION PLAN.**

(a) **IN GENERAL.**—The Fort Peck Tribes and Dry Prairie Rural Water Association Incorporated shall develop a water conservation plan containing—

- (1) a description of water conservation objectives;
- (2) a description of appropriate water conservation measures; and

(3) a time schedule for implementing the measures and this Act to meet the water conservation objectives.

(b) PURPOSE.—The water conservation plan under subsection (a) shall be designed to ensure that users of water from the Assiniboine and Sioux Rural Water System and the Dry Prairie Rural Water System will use the best practicable technology and management techniques to conserve water.

(c) PUBLIC PARTICIPATION.—Section 210(c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390jj(c)) shall apply to an activity authorized under this Act.

Applicability.

#### SEC. 8. WATER RIGHTS.

(a) IN GENERAL.—This Act does not—

(1) impair the validity of or preempt any provision of State water law or any interstate compact governing water;

(2) alter the right of any State to any appropriated share of the water of any body of surface or ground water, whether determined by any past or future interstate compact or by any past or future legislative or final judicial allocation;

(3) preempt or modify any Federal or State law or interstate compact concerning water quality or disposal;

(4) confer on any non-Federal entity the authority to exercise any Federal right to the water of any stream or to any ground water resource;

(5) affect any right of the Fort Peck Tribes to water, located within or outside the external boundaries of the Fort Peck Indian Reservation, based on a treaty, compact, executive order, agreement, Act of Congress, aboriginal title, the decision in *Winters v. United States*, 207 U.S. 564 (1908) (commonly known as the “Winters Doctrine”), or other law; or

(6) validate or invalidate any assertion of the existence, nonexistence, or extinguishment of any water right held or Indian water compact entered into by the Fort Peck Tribes or by any other Indian tribe or individual Indian under Federal or State law.

(b) OFFSET AGAINST CLAIMS.—Any funds received by the Fort Peck Tribes pursuant to this Act shall be used to offset any claims for money damages against the United States by the Fort Peck Tribes, existing on the date of the enactment of this Act, for water rights based on a treaty, compact, executive order, agreement, Act of Congress, aboriginal title, the decision in *Winters v. United States*, 207 U.S. 564 (1908), or other law.

#### SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) ASSINIBOINE AND SIOUX RURAL WATER SYSTEM.—There are authorized to be appropriated—

(1) to the Bureau of Reclamation over a period of 10 fiscal years, \$124,000,000 for the planning, design, and construction of the Assiniboine and Sioux Rural Water System; and

(2) to the Bureau of Indian Affairs such sums as are necessary for the operation and maintenance of the Assiniboine and Sioux Rural Water System.

(b) DRY PRAIRIE RURAL WATER SYSTEM.—There is authorized to be appropriated, over a period of 10 fiscal years, \$51,000,000 for the planning, design, and construction of the Dry Prairie Rural Water System.

(c) COST INDEXING.—The funds authorized to be appropriated may be increased or decreased by such amounts as are justified by reason of ordinary fluctuations in development costs incurred after October 1, 1998, as indicated by engineering cost indices applicable for the type of construction involved.

Approved October 27, 2000.

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LEGISLATIVE HISTORY—S. 624 (H.R. 1124):

HOUSE REPORTS: Nos. 106-823 and 106-824 accompanying H.R. 1124 (both from Comm. on Resources).

SENATE REPORTS: No. 106-198 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 145 (1999): Nov. 19, considered and passed Senate.

Vol. 146 (2000): Sept. 12, considered and passed House, amended.  
Oct. 13, Senate concurred in House amendment.



**EXHIBIT B**

**FORT PECK RESERVATION RURAL WATER SYSTEM ACT OF 2000  
HOUSE REPORT 106-382**

FORT PECK RESERVATION RURAL WATER SYSTEM ACT OF  
2000

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SEPTEMBER 7, 2000.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. YOUNG of Alaska, from the Committee on Resources,  
submitted the following

R E P O R T

[To accompany S. 624]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (S. 624) to authorize construction of the Fort Peck Reservation Rural Water System in the State of Montana, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Fort Peck Reservation Rural Water System Act of 2000”.

**SEC. 2. PURPOSES.**

The purposes of this Act are—

- (1) to ensure a safe and adequate municipal, rural, and industrial water supply for the residents of the Fort Peck Indian Reservation in the State of Montana; and
- (2) to assist the citizens of Roosevelt, Sheridan, Daniels, and Valley Counties in the State, outside the Fort Peck Indian Reservation, in developing safe and adequate municipal, rural, and industrial water supplies.

**SEC. 3. DEFINITIONS.**

In this Act:

- (1) **ASSINIBOINE AND SIOUX RURAL WATER SYSTEM.**—The term “Assiniboine and Sioux Rural Water System” means the rural water system within the Fort Peck Indian Reservation authorized by section 4.
- (2) **DRY PRAIRIE RURAL WATER SYSTEM.**—The term “Dry Prairie Rural Water System” means the rural water system authorized by section 5 in the Roosevelt, Sheridan, Daniels, and Valley Counties of the State.
- (3) **FORT PECK RESERVATION RURAL WATER SYSTEM.**—The term “Fort Peck Reservation Rural Water System” means the Assiniboine and Sioux Rural Water System and the Dry Prairie Rural Water System.

(4) FORT PECK TRIBES.—The term “Fort Peck Tribes” means the Assiniboine and Sioux Indian Tribes within the Fort Peck Indian Reservation.

(5) PICK-SLOAN.—The term “Pick-Sloan” means the Pick-Sloan Missouri River Basin Program (authorized by section 9 of the Act entitled “An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes”, approved December 22, 1944 (commonly known as the “Flood Control Act of 1944”) (58 Stat. 891)).

(6) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(7) STATE.—The term “State” means the State of Montana.

**SEC. 4. ASSINIBOINE AND SIOUX RURAL WATER SYSTEM.**

(a) AUTHORIZATION.—The Secretary shall plan, design, construct, operate, maintain, and replace a municipal, rural, and industrial water system, to be known as the “Assiniboine and Sioux Rural Water System”, as generally described in the report required by subsection (g)(2).

(b) COMPONENTS.—The Assiniboine and Sioux Rural Water System shall consist of—

(1) pumping and treatment facilities located along the Missouri River within the boundaries of the Fort Peck Indian Reservation;

(2) pipelines extending from the water treatment plant throughout the Fort Peck Indian Reservation;

(3) distribution and treatment facilities to serve the needs of the Fort Peck Indian Reservation, including—

(A) public water systems in existence on the date of enactment of this Act that may be purchased, improved, and repaired in accordance with the cooperative agreement entered into under subsection (c); and

(B) water systems owned by individual tribal members and other residents of the Fort Peck Indian Reservation;

(4) appurtenant buildings and access roads;

(5) all property and property rights necessary for the facilities described in this subsection;

(6) electrical power transmission and distribution facilities necessary for services to Fort Peck Reservation Rural Water System facilities; and

(7) such other pipelines, pumping plants, and facilities as the Secretary determines to be appropriate to meet the water supply, economic, public health, and environmental needs of the Fort Peck Indian Reservation, including water storage tanks, water lines, and other facilities for the Fort Peck Tribes and the villages, towns, and municipalities in the Fort Peck Indian Reservation.

(c) COOPERATIVE AGREEMENT.—

(1) IN GENERAL.—The Secretary shall enter into a cooperative agreement with the Fort Peck Tribal Executive Board for planning, designing, constructing, operating, maintaining, and replacing the Assiniboine and Sioux Rural Water System.

(2) MANDATORY PROVISIONS.—The cooperative agreement under paragraph (1) shall specify, in a manner that is acceptable to the Secretary and the Fort Peck Tribal Executive Board—

(A) the responsibilities of each party to the agreement for—

(i) needs assessment, feasibility, and environmental studies;

(ii) engineering and design;

(iii) construction;

(iv) water conservation measures; and

(v) administration of contracts relating to performance of the activities described in clauses (i) through (iv);

(B) the procedures and requirements for approval and acceptance of the design and construction and for carrying out other activities described in subparagraph (A); and

(C) the rights, responsibilities, and liabilities of each party to the agreement.

(3) OPTIONAL PROVISIONS.—The cooperative agreement under paragraph (1) may include provisions relating to the purchase, improvement, and repair of water systems in existence on the date of enactment of this Act, including systems owned by individual tribal members and other residents of the Fort Peck Indian Reservation.

(4) TERMINATION.—The Secretary may terminate a cooperative agreement under paragraph (1) if the Secretary determines that—

(A) the quality of construction does not meet all standards established for similar facilities constructed by the Secretary; or

(B) the operation and maintenance of the Assiniboine and Sioux Rural Water System does not meet conditions acceptable to the Secretary that are

adequate to fulfill the obligations of the United States to the Fort Peck Tribes.

(5) TRANSFER.—On execution of a cooperative agreement under paragraph (1), in accordance with the cooperative agreement, the Secretary may transfer to the Fort Peck Tribes, on a nonreimbursable basis, funds made available for the Assiniboine and Sioux Rural Water System under section 9.

(d) SERVICE AREA.—The service area of the Assiniboine and Sioux Rural Water System shall be the area within the boundaries of the Fort Peck Indian Reservation.

(e) CONSTRUCTION REQUIREMENTS.—The components of the Assiniboine and Sioux Rural Water System shall be planned and constructed to a size that is sufficient to meet the municipal, rural, and industrial water supply requirements of the service area of the Fort Peck Reservation Rural Water System.

(f) TITLE TO ASSINIBOINE AND SIOUX RURAL WATER SYSTEM.—Title to the Assiniboine and Sioux Rural Water System shall be held in trust by the United States for the Fort Peck Tribes and shall not be transferred unless a transfer is authorized by an Act of Congress enacted after the date of enactment of this Act.

(g) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for construction of the Assiniboine and Sioux Rural Water System until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the Assiniboine and Sioux Rural Water System;

(2) on or after the date that is 90 days after the date of submission to Congress of a final engineering report approved by the Secretary; and

(3) the Secretary publishes a written finding that the water conservation plan developed under section 7 includes prudent and reasonable water conservation measures for the operation of the Assiniboine and Sioux Rural Water System that have been shown to be economically and financially feasible.

(h) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical assistance as is necessary to enable the Fort Peck Tribes to plan, design, construct, operate, maintain, and replace the Assiniboine and Sioux Rural Water System, including operation and management training.

(i) APPLICATION OF INDIAN SELF-DETERMINATION ACT.—Planning, design, construction, operation, maintenance, and replacement of the Assiniboine and Sioux Rural Water System within the Fort Peck Indian Reservation shall be subject to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(j) COST SHARING.—

(1) CONSTRUCTION.—The Federal share of the cost of construction of the Assiniboine and Sioux Rural Water System shall be 100 percent, and shall be funded through annual appropriations to the Bureau of Reclamation.

(2) OPERATION AND MAINTENANCE.—The Federal share of the cost of operation and maintenance of the Assiniboine and Sioux Rural Water System shall be 100 percent, and shall be funded through annual appropriations to the Bureau of Indian Affairs.

#### SEC. 5. DRY PRAIRIE RURAL WATER SYSTEM.

(a) PLANNING AND CONSTRUCTION.—

(1) AUTHORIZATION.—The Secretary shall enter into a cooperative agreement with Dry Prairie Rural Water Association Incorporated (or any successor non-Federal entity) to provide Federal funds for the planning, design, and construction of the Dry Prairie Rural Water System in Roosevelt, Sheridan, Daniels, and Valley Counties, Montana, outside the Fort Peck Indian Reservation.

(2) USE OF FEDERAL FUNDS.—

(A) FEDERAL SHARE.—The Federal share of the cost of planning, design, and construction of the Dry Prairie Rural Water System shall be not more than 76 percent, and shall be funded with amounts appropriated from the reclamation fund. Such amounts shall not be returnable or reimbursable under the Federal reclamation laws.

(B) COOPERATIVE AGREEMENTS.—Federal funds made available to carry out this section may be obligated and expended only through a cooperative agreement entered into under subsection (c).

(b) COMPONENTS.—The components of the Dry Prairie Rural Water System facilities on which Federal funds may be obligated and expended under this section shall include—

(1) storage, pumping, interconnection, and pipeline facilities;

(2) appurtenant buildings and access roads;

(3) all property and property rights necessary for the facilities described in this subsection;

- (4) electrical power transmission and distribution facilities necessary for service to Dry Prairie Rural Water System facilities; and
  - (5) other facilities customary to the development of rural water distribution systems in the State, including supplemental water intake, pumping, and treatment facilities.
- (c) COOPERATIVE AGREEMENT.—
- (1) IN GENERAL.—The Secretary, with the concurrence of the Assiniboine and Sioux Rural Water System Board, shall enter into a cooperative agreement with Dry Prairie Rural Water Association Incorporated to provide Federal assistance for the planning, design, and construction of the Dry Prairie Rural Water System.
  - (2) MANDATORY PROVISIONS.—The cooperative agreement under paragraph (1) shall specify, in a manner that is acceptable to the Secretary and Dry Prairie Rural Water Association Incorporated—
    - (A) the responsibilities of each party to the agreement for—
      - (i) needs assessment, feasibility, and environmental studies;
      - (ii) engineering and design;
      - (iii) construction;
      - (iv) water conservation measures; and
      - (v) administration of contracts relating to performance of the activities described in clauses (i) through (iv);
    - (B) the procedures and requirements for approval and acceptance of the design and construction and for carrying out other activities described in subparagraph (A); and
    - (C) the rights, responsibilities, and liabilities of each party to the agreement.
- (d) SERVICE AREA.—
- (1) IN GENERAL.—Except as provided in paragraph (2), the service area of the Dry Prairie Rural Water System shall be the area in the State—
    - (A) north of the Missouri River;
    - (B) south of the border between the United States and Canada;
    - (C) west of the border between the States of North Dakota and Montana; and
    - (D) east of the western line of range 39 east.
  - (2) FORT PECK INDIAN RESERVATION.—The service area shall not include the area inside the Fort Peck Indian Reservation.
- (e) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for construction of the Dry Prairie Rural Water System until—
- (1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the Dry Prairie Rural Water System;
  - (2) on or after the date that is 90 days after the date of submission to Congress of a final engineering report approved by the Secretary; and
  - (3) the Secretary publishes a written finding that the water conservation plan developed under section 7 includes prudent and reasonable water conservation measures for the operation of the Dry Prairie Rural Water System that have been shown to be economically and financially feasible.
- (f) INTERCONNECTION OF FACILITIES.—The Secretary shall—
- (1) interconnect the Dry Prairie Rural Water System with the Assiniboine and Sioux Rural Water System; and
  - (2) provide for the delivery of water to the Dry Prairie Rural Water System from the Missouri River through the Assiniboine and Sioux Rural Water System.
- (g) LIMITATION ON USE OF FEDERAL FUNDS.—
- (1) IN GENERAL.—The operation, maintenance, and replacement expenses associated with water deliveries from the Assiniboine and Sioux Rural Water System to the Dry Prairie Rural Water System shall not be a Federal responsibility and shall be borne by the Dry Prairie Rural Water System.
  - (2) FEDERAL FUNDS.—The Secretary may not obligate or expend any Federal funds for the operation, maintenance, or replacement of the Dry Prairie Rural Water System.
- (h) TITLE TO DRY PRAIRIE RURAL WATER SYSTEM.—Title to the Dry Prairie Rural Water System shall be held by Dry Prairie Rural Water Association, Incorporated.
- SEC. 6. USE OF PICK-SLOAN POWER.**
- (a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri Basin program, the Western Area Power Administration shall make available, at the firm power rate, the capacity and energy

required to meet the pumping and incidental operational requirements of the Fort Peck Reservation Rural Water System.

(b) **QUALIFICATION TO USE PICK-SLOAN POWER.**—For as long as the Fort Peck Reservation rural water supply system operates on a not-for-profit basis, the portions of the water supply project constructed with assistance under this Act shall be eligible to receive firm power from the Pick-Sloan Missouri Basin program established by section 9 of the Act of December 22, 1944 (chapter 665; 58 Stat. 887), popularly known as the Flood Control Act of 1944.

(c) **RECOVERY OF EXPENSES.**—

(1) **ASSINIBOINE AND SIOUX RURAL WATER SYSTEM.**—In the case of the Assiniboine and Sioux Rural Water System, the Western Area Power Administration shall recover expenses associated with power purchases under subsection (a) through a separate power charge sufficient to cover such expenses. Such charge shall be paid fully through the annual appropriations to the Bureau of Indian Affairs.

(2) **DRY PRAIRIE RURAL WATER SYSTEM.**—In the case of the Dry Prairie Rural Water System, the Western Area Power Administration shall recover expenses associated with power purchases under subsection (a) through a separate power charge sufficient to cover expenses. Such charge shall be paid fully by the Dry Prairie Rural Water System.

(d) **ADDITIONAL POWER.**—If power in addition to that made available under subsection (a) is required to meet the pumping requirements of the Fort Peck Reservation Rural Water System, the Administrator of the Western Area Power Administration may purchase the necessary additional power at the best available rate. The costs of such purchases shall be reimbursed to the Administrator according to the terms identified in subsection (c).

#### **SEC. 7. WATER CONSERVATION PLAN.**

(a) **IN GENERAL.**—The Fort Peck Tribes and Dry Prairie Rural Water Association incorporated shall develop a water conservation plan containing—

- (1) a description of water conservation objectives;
- (2) a description of appropriate water conservation measures; and
- (3) a time schedule for implementing the measures and this Act to meet the water conservation objectives.

(b) **PURPOSE.**—The water conservation plan under subsection (a) shall be designed to ensure that users of water from the Assiniboine and Sioux Rural Water System and the Dry Prairie Rural Water System will use the best practicable technology and management techniques to conserve water.

(c) **PUBLIC PARTICIPATION.**—Section 210(c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390jj(c)) shall apply to an activity authorized under this Act.

#### **SEC. 8. WATER RIGHTS.**

(a) **IN GENERAL.**—This Act does not—

- (1) impair the validity of or preempt any provision of State water law or any interstate compact governing water;
- (2) alter the right of any State to any appropriated share of the water of any body of surface or ground water, whether determined by any past or future interstate compact or by any past or future legislative or final judicial allocation;
- (3) preempt or modify any Federal or State law or interstate compact concerning water quality or disposal;
- (4) confer on any non-Federal entity the authority to exercise any Federal right to the water of any stream or to any ground water resource;
- (5) affect any right of the Fort Peck Tribes to water, located within or outside the external boundaries of the Fort Peck Indian Reservation, based on a treaty, compact, executive order, agreement, Act of Congress, aboriginal title, the decision in *Winters v. United States*, 207 U.S. 564 (1908) (commonly known as the “Winters Doctrine”), or other law; or
- (6) validate or invalidate any assertion of the existence, nonexistence, or extinguishment of any water right held or Indian water compact entered into by the Fort Peck Tribes or by any other Indian tribe or individual Indian under Federal or State law.

(b) **OFFSET AGAINST CLAIMS.**—Any funds received by the Fort Peck Tribes pursuant to this Act shall be used to offset any claims for money damages against the United States by the Fort Peck Tribes, existing on the date of the enactment of this Act, for water rights based on a treaty, compact, executive order, agreement, Act of Congress, aboriginal title, the decision in *Winters v. United States*, 207 U.S. 564 (1908), or other law.

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

(a) ASSINIBOINE AND SIOUX RURAL WATER SYSTEM.—There are authorized to be appropriated—

(1) to the Bureau of Reclamation over a period of 10 fiscal years, \$124,000,000 for the planning, design, and construction of the Assiniboine and Sioux Rural Water System; and

(2) to the Bureau of Indian Affairs such sums as are necessary for the operation and maintenance of the Assiniboine and Sioux Rural Water System.

(b) DRY PRAIRIE RURAL WATER SYSTEM.—There is authorized to be appropriated, over a period of 10 fiscal years, \$51,000,000 for the planning, design, and construction of the Dry Prairie Rural Water System.

(c) COST INDEXING.—The funds authorized to be appropriated may be increased or decreased by such amounts as are justified by reason of ordinary fluctuations in development costs incurred after October 1, 1998, as indicated by engineering cost indices applicable for the type of construction involved.

**PURPOSE OF THE BILL**

The purpose of S. 624 is to authorize construction of the Fort Peck Reservation Rural water System in the State of Montana, and for other purposes.

**BACKGROUND**

The Fort Peck Reservation is located in northeastern Montana and includes large parts of Roosevelt and Valley Counties. The Reservation is approximately 100 miles long by 40 miles wide and lies along the Missouri River about 20 miles south of the Canadian border. The Reservation is home to the Assiniboine and Sioux Tribes and about 6,000 of the 11,000 enrolled members live on the Reservation, which comprises slightly over two million acres. Approximately 400,000 acres (19 percent) are in Tribal ownership, about 543,000 (26 percent) are owned by Tribal members, and 1,100,000 (55 percent) are held in fee by non-Indians.

The Fort Peck Reservation suffers from the same problem of inadequate quantity and quality of water supplies as do most areas in the High Plains. The Bureau of Reclamation participated in a needs assessment which documented that groundwater supplies did not meet Environmental Protection Agency requirements and that available supplies were not adequate. The Indian Health Service and the Tribal Health Office have issued several public health alerts. The Bureau of Reclamation also participated in a feasibility study that included review of the use of Missouri River water as a supply source for a Reservation-wide distribution system. The adjacent communities have the same problems, and the legislation contemplates that the Reservation system would be sized to connect to a distribution system for the surrounding communities. All costs of the Reservation system, including operations and maintenance would be a federal responsibility. The costs associated with the operation and maintenance of the system for the Tribe shall be funded through annual appropriations to the Bureau of Indian Affairs. Federal costs for the Dry Prairie system shall not exceed 76 percent, and the federal government may not expend any federal funds for operations, maintenance or replacement costs for the Dry Prairie system.

**COMMITTEE ACTION**

S. 624 was introduced on March 16, 1999, by Senator Conrad Burns (R-MT). Companion legislation, H.R. 1124, was introduced

in the House of Representatives by Congressman Rick Hill (R-MT). On November 19, 1999, the Senate passed S. 624 with an amendment by unanimous consent. The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Water and Power. On July 26, 2000, the Resources Committee met to consider the bill. The Subcommittee on Water and Power was discharged from consideration of the measure by unanimous consent. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

The short title of the bill is the “Fort Peck Reservation Rural Water System Act of 2000”.

##### *Section 2. Purposes*

This section sets forth the purposes for the legislation.

##### *Section 3. Definitions*

This section provides definitions of terms used in the bill, including “Assiniboine and Sioux Rural Water System”, “Dry Prairie Rural Water System”, “Fort Peck Reservation Rural Water System”, and “Fort Peck Tribes”, among others.

##### *Section 4. Assiniboine and Sioux Rural Water System*

This section authorizes the Secretary of the Interior to plan, design, construct, operate, maintain and replace a municipal, rural, and industrial water system for the Fort Peck Reservation. This section describes the components of the system, provides for a cooperative agreement between the Secretary and the Fort Peck Tribes to define the responsibilities of each for the planning, design, construction, and operation and maintenance, and provides that title to the system shall be held in trust by the United States for the Fort Peck Tribes. The Committee expects that the Fort Peck Tribes will charge operation, maintenance and replacement costs for the water delivered to the Dry Prairie Rural Water System, but will not charge for access to water, use of water rights held by the Tribes, or for other purposes. The federal share of the operation of maintenance shall be 100 percent, and shall be funded through annual appropriations to the Bureau of Indian Affairs.

##### *Section 5. Dry Prairie Rural Water System*

This section authorizes the Secretary of the Interior to enter into a cooperative agreement with the Dry Prairie Rural Water Association Incorporated to provide federal funds for the planning, design, and construction of the Dry Prairie Rural Water System. This section limits the federal share to not more than 76 percent. This section requires that the amounts appropriated come from the Reclamation Fund. In addition, the section describes the components of the system, the cooperative agreement, the service area of the system, and limitations on availability of construction funds. The Committee expects that the Secretary shall provide technical sup-

port regarding the cooperative agreement between the Fort Peck and Dry Prairie Systems regarding the interconnection of facilities.

*Section 6. Use of Pick-Sloan power*

This section provides that the Western Area Power Administration shall make available power which was originally designated for future irrigation and drainage for the Pick-Sloan Missouri River Basin to be used instead for pumping, treatment, and incidental operational requirements of both water systems at the firm power rate. The Committee expects that additional power will be provided by the Western Area Power Administration outside the months of April through October, when future irrigation and drainage power is not available, and such additional power, when not available from Western Area Power Administration, may be purchased by the Western Area Power Administration at the best available rate. This section also provides conditions for the use of such capacity and energy. The Committee expects that the capacity and energy marketed by the Western Area Power Administration to the Assiniboine and Sioux Rural Water System and to the Dry Prairie Rural Water System will be delivered through a preference power entity.

*Section 7. Water conservation plan*

This section requires that the Fort Peck Tribes and the Dry Prairie Rural Water Association Incorporated shall develop a water conservation plan and describes the components of that plan.

*Section 8. Water rights*

This section addresses water rights issues. The Committee expects that any funds received by the Tribe under this bill shall be used to offset any claims for money damages against the United States by the Fort Peck Tribes for water rights based on a treaty, compact, executive order, agreement, Act of Congress, aboriginal title, the decision in *Winters versus United States*, or other law.

*Section 9. Authorization of appropriations*

This section authorizes \$124 million over a period of 10 fiscal years for the planning, design, and construction of the Assiniboine and Sioux Rural Water System and such sums as necessary for operation, maintenance and replacement and power costs. This section also authorizes \$51,000,000 over a period of 10 fiscal years for the planning, design, and construction of the Dry Prairie Rural Water System. Cost indexing is permitted.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

## COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. Government Reform Oversight Findings. Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 30, 2000.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 624, the Fort Peck Reservation Rural Water System Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Barry Blom (for federal costs), and Theresa Gullo (for the state and local impact).

Sincerely,

STEVEN LIEBERMAN  
(For Dan L. Crippen, Director).

Enclosure.

*S. 624—Fort Peck Reservation Rural Water System Act of 2000*

Summary: S. 624 would authorize appropriations for a water supply system serving the Fort Peck Indian Reservation and the Dry Prairie Rural Water System in Montana. This act would authorize a total of \$175 million (in 2000 dollars) over a 10-year period for the construction of the system and would authorize such sums as may be necessary for the operation and maintenance of the facilities on the reservation. It would direct the Secretary of the Interior to enter into cooperative agreements with the Fort Peck Tribal Executive Board and the Dry Prairie Rural Water Association that would allow those entities to implement the project if they comply with certain terms and conditions in the legislation. All

costs associated with the tribal portion of the project would be the responsibility of the Bureau of Reclamation. The Dry Prairie Rural Water System would be required to pay for operations and maintenance of its portion of the system but would not be obligated to repay the federal contribution to the project.

Adjusting for inflation, CBO estimates that implementing S. 624 would require appropriations of \$207 million over the 2001–2010 period and additional amounts thereafter. We estimate that \$66 million of this total would be spent over the 2001–2005 period and \$141 million over fiscal years 2006 through 2010. Outlays for operation and maintenance costs in subsequent years would average about \$2 million a year (in 2000 dollars) and would continue over the life of the tribal water system, or through at least fiscal year 2050. Because S. 624 would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

S. 624 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that complying with this mandate would impose no significant costs on state, local, or tribal governments, so the threshold established by that act (\$55 million in 2000, adjusted annually for inflation) would not be exceeded. S. 624 contains no new private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 624 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—				
	2001	2002	2003	2004	2005
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level .....	3	5	15	21	22
Estimated Outlays .....	3	5	15	21	22

Basis of estimate: For this estimate, CBO assumes that appropriations would be provided as needed to design, construct, and operate this water supply system. We also assume that the Secretary would complete the cooperative agreements with the Fort Peck Tribes and the Dry Prairie Rural Water Association in fiscal year 2001.

Our estimate of project costs is based on a preliminary construction schedule prepared by the tribes and the association that is consistent with the amounts and conditions specified in S. 624. CBO adjusted those estimates to reflect the impact of anticipated inflation during the time between the authorization and appropriation of project funding. We expect that outlays would occur as funds are obligated because, under the act, project implementation would be the responsibility of the tribes and the association.

Pay-as-you-go considerations: None.

Estimated impact on State, local, and tribal governments: S. 624 contains an intergovernmental mandate as defined in UMRA. CBO estimates that complying with this mandate would impose no significant costs on state, local, or tribal governments, so the threshold established by that act (\$55 million in 2000, adjusted annually for inflation) would not be exceeded.

*Mandates*

The act would require the Fort Peck Tribes and the Dry Prairie Rural Water Association (a public entity) to develop a water conservation plan. This requirement would be an intergovernmental mandate as defined in UMRA. Because these organizations have already developed a plan, however, complying with this mandate would result in no significant additional costs.

*Other impacts*

The Dry Prairie Rural Water Association and the state of Montana would probably incur some additional costs as a result of this legislation's enactment, but these costs would be voluntary. S. 624 would require nonfederal participants to pay part of the cost of constructing the Dry Prairie system and to pay all the costs of operating and maintaining this system.

Estimated impact on the private sector: This act contains no new private-sector mandates as defined in UMRA.

Previous CBO estimates: On October 8, 1999, CBO transmitted a cost estimate for S. 624, the Fort Peck Reservation Rural Water System Act of 1999, as ordered reported by the Senate Committee on Energy and Natural Resources on September 22, 1999. The House and Senate versions of S. 624 are very similar, and the costs are nearly identical.

On August 30, 2000, CBO transmitted a cost estimate for H.R. 1124, the Fort Peck Reservation Rural Water System Act of 2000, as ordered reported by the House Committee on Resources on July 26, 2000. The House version of S. 624 and H.R. 1124 are identical, as are the cost estimates.

Estimate prepared by: Federal Costs: Barry Blom; Impact on State, Local, and Tribal Governments: Theresa Gullo; Impact on Private Sector: Lauren Marks.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates, as defined in Public Law 104-4.

## PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

## CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.