

115TH CONGRESS
1ST SESSION

S. 685

To authorize the Dry-Redwater Regional Water Authority System and the Musselshell-Judith Rural Water System in the States of Montana and North Dakota, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 21, 2017

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

A BILL

To authorize the Dry-Redwater Regional Water Authority System and the Musselshell-Judith Rural Water System in the States of Montana and 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 “Clean Water for Rural
5 Communities Act”.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to ensure a safe and ade-
3 quate municipal, rural, and industrial water supply for the
4 citizens of—

5 (1) Dawson, Garfield, McCone, Prairie, Rich-
6 land, Judith Basin, Wheatland, Golden Valley, Fer-
7 gus, Yellowstone, and Musselshell Counties in the
8 State of Montana; and

9 (2) McKenzie County, North Dakota.

10 **SEC. 3. DEFINITIONS.**

11 In this Act:

12 (1) ADMINISTRATOR.—The term “Adminis-
13 trator” means the Administrator of the Western
14 Area Power Administration.

15 (2) AUTHORITY.—The term “Authority”
16 means—

17 (A) in the case of the Dry-Redwater Re-
18 gional Water Authority System—

19 (i) the Dry-Redwater Regional Water
20 Authority, which is a publicly owned non-
21 profit water authority formed in accord-
22 ance with Mont. Code Ann. § 75–6–302
23 (2007); and

24 (ii) any nonprofit successor entity to
25 the Authority described in clause (i); and

1 (B) in the case of the Musselshell-Judith
2 Rural Water System—

3 (i) the Central Montana Regional
4 Water Authority, which is a publicly owned
5 nonprofit water authority formed in ac-
6 cordance with Mont. Code Ann. § 75-6-
7 302 (2007); and

8 (ii) any nonprofit successor entity to
9 the Authority described in clause (i).

10 (3) DRY-REDWATER REGIONAL WATER AU-
11 THORITY SYSTEM.—The term “Dry-Redwater Re-
12 gional Water Authority System” means the Dry-
13 Redwater Regional Water Authority System author-
14 ized under section 4(a)(1) with a project service area
15 that includes—

16 (A) Garfield and McCone Counties in the
17 State;

18 (B) the area west of the Yellowstone River
19 in Dawson and Richland Counties in the State;

20 (C) T. 15 N. (including the area north of
21 the Township) in Prairie County in the State;
22 and

23 (D) the portion of McKenzie County,
24 North Dakota, that includes all land that is lo-

1 cated west of the Yellowstone River in the State
2 of North Dakota.

3 (4) INTEGRATED SYSTEM.—The term “inte-
4 grated system” means the transmission system
5 owned by the Western Area Power Administration
6 Basin Electric Power District and the Heartland
7 Consumers Power District.

8 (5) MUSSELSHELL-JUDITH RURAL WATER SYS-
9 TEM.—The term “Musselshell-Judith Rural Water
10 System” means the Musselshell-Judith Rural Water
11 System authorized under section 4(a)(2) with a
12 project service area that includes—

13 (A) Judith Basin, Wheatland, Golden Val-
14 ley, and Musselshell Counties in the State;

15 (B) the portion of Yellowstone County in
16 the State within 2 miles of State Highway 3
17 and within 4 miles of the county line between
18 Golden Valley and Yellowstone Counties in the
19 State, inclusive of the Town of Broadview,
20 Montana; and

21 (C) the portion of Fergus County in the
22 State within 2 miles of U.S. Highway 87 and
23 within 4 miles of the county line between Fer-
24 gus and Judith Basin Counties in the State, in-
25 clusive of the Town of Moore, Montana.

1 (6) NON-FEDERAL DISTRIBUTION SYSTEM.—

2 The term “non-Federal distribution system” means
3 a non-Federal utility that provides electricity to the
4 counties covered by the Dry-Redwater Regional
5 Water Authority System.

6 (7) PICK-SLOAN PROGRAM.—The term “Pick-
7 Sloan program” means the Pick-Sloan Missouri
8 River Basin Program (authorized by section 9 of the
9 Act of December 22, 1944 (commonly known as the
10 “Flood Control Act of 1944”) (58 Stat. 891, chapter
11 665)).

12 (8) SECRETARY.—The term “Secretary” means
13 the Secretary of the Interior.

14 (9) STATE.—The term “State” means the State
15 of Montana.

16 (10) WATER SYSTEM.—The term “Water Sys-
17 tem” means—

18 (A) the Dry-Redwater Regional Water Au-
19 thority System; and

20 (B) the Musselshell-Judith Rural Water
21 System.

1 **SEC. 4. DRY-REDWATER REGIONAL WATER AUTHORITY SYS-**
2 **TEM AND MUSSELSHELL-JUDITH RURAL**
3 **WATER SYSTEM.**

4 (a) **AUTHORIZATION.**—The Secretary may carry
5 out—

6 (1) the project entitled the “Dry-Redwater Re-
7 gional Water Authority System” in a manner that is
8 substantially in accordance with the feasibility study
9 entitled “Dry-Redwater Regional Water System Fea-
10 sibility Study” (including revisions of the study),
11 which received funding from the Bureau of Reclama-
12 tion on September 1, 2010; and

13 (2) the project entitled the “Musselshell-Judith
14 Rural Water System” in a manner that is substan-
15 tially in accordance with the feasibility report enti-
16 tled “Musselshell-Judith Rural Water System Feasi-
17 bility Report” (including any and all revisions of the
18 report).

19 (b) **COOPERATIVE AGREEMENT.**—The Secretary shall
20 enter into a cooperative agreement with the Authority to
21 provide Federal assistance for the planning, design, and
22 construction of the Water Systems.

23 (c) **COST-SHARING REQUIREMENT.**—

24 (1) **FEDERAL SHARE.**—

25 (A) **IN GENERAL.**—The Federal share of
26 the costs relating to the planning, design, and

construction of the Water Systems shall not exceed—

(i) in the case of the Dry-Redwater Regional Water Authority System—

(I) 75 percent of the total cost of the Dry-Redwater Regional Water Authority System; or

(II) such other lesser amount as may be determined by the Secretary, acting through the Commissioner of Reclamation, in a feasibility report; or

(ii) in the case of the Musselshell-Judith Rural Water System, 75 percent of the total cost of the Musselshell-Judith Rural Water System.

(B) LIMITATION.—Amounts made available under subparagraph (A) shall not be returnable or reimbursable under the reclamation laws.

(2) USE OF FEDERAL FUNDS.—

(A) GENERAL USES.—Subject to subparagraphs (B) and (C), the Water Systems may use Federal funds made available to carry out this section for—

(i) facilities relating to—

- 1 (I) water pumping;
- 2 (II) water treatment; and
- 3 (III) water storage;
- 4 (ii) transmission pipelines;
- 5 (iii) pumping stations;
- 6 (iv) appurtenant buildings, maintenance equipment, and access roads;
- 7
- 8 (v) any interconnection facility that
- 9 connects a pipeline of the Water System to
- 10 a pipeline of a public water system;
- 11 (vi) electrical power transmission and
- 12 distribution facilities required for the operation and maintenance of the Water System;
- 13
- 14
- 15 (vii) any other facility or service required for the development of a rural water
- 16 distribution system, as determined by the
- 17 Secretary; and
- 18
- 19 (viii) any property or property right
- 20 required for the construction or operation
- 21 of a facility described in this subsection.

22 (B) ADDITIONAL USES.—In addition to the
23 uses described in subparagraph (A)—

- 24 (i) the Dry-Redwater Regional Water
- 25 Authority System may use Federal funds

made available to carry out this section
for—

(I) facilities relating to water intake; and

(II) distribution, pumping, and storage facilities that—

(aa) serve the needs of citizens who use public water systems;

(bb) are in existence on the date of enactment of this Act; and

(cc) may be purchased, improved, and repaired in accordance with a cooperative agreement entered into by the Secretary under subsection (b); and

(ii) the Musselshell-Judith Rural Water System may use Federal funds made available to carry out this section for—

(I) facilities relating to—

(aa) water supply wells; and

(bb) distribution pipelines;

and

1 (II) control systems.

2 (C) LIMITATION.—Federal funds made
3 available to carry out this section shall not be
4 used for the operation, maintenance, or replace-
5 ment of the Water Systems.

6 (D) TITLE.—Title to the Water Systems
7 shall be held by the Authority.

8 **SEC. 5. USE OF POWER FROM PICK-SLOAN PROGRAM BY**
9 **THE DRY-REDWATER REGIONAL WATER AU-**
10 **THORITY SYSTEM.**

11 (a) FINDING.—Congress finds that—

12 (1) McCone and Garfield Counties in the State
13 were designated as impact counties during the pe-
14 riod in which the Fort Peck Dam was constructed;
15 and

16 (2) as a result of the designation, the Counties
17 referred to in paragraph (1) were to receive impact
18 mitigation benefits in accordance with the Pick-
19 Sloan program.

20 (b) AVAILABILITY OF POWER.—

21 (1) IN GENERAL.—Subject to paragraph (2),
22 the Administrator shall make available to the Dry-
23 Redwater Regional Water Authority System a quan-
24 tity of power required, of up to 1½ megawatt capac-
25 ity, to meet the pumping and incidental operation

1 requirements of the Dry-Redwater Regional Water
2 Authority System during the period beginning on
3 May 1 and ending on October 31 of each year—

4 (A) from the water intake facilities; and

5 (B) through all pumping stations, water
6 treatment facilities, reservoirs, storage tanks,
7 and pipelines up to the point of delivery of
8 water by the water supply system to all storage
9 reservoirs and tanks and each entity that dis-
10 tributes water at retail to individual users.

11 (2) ELIGIBILITY.—The Dry-Redwater Regional
12 Water Authority System shall be eligible to receive
13 power under paragraph (1) if the Dry-Redwater Re-
14 gional Water Authority System—

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

16 (B) is constructed pursuant to a coopera-
17 tive agreement entered into by the Secretary
18 under section 4(b).

19 (3) RATE.—The Administrator shall establish
20 the cost of the power described in paragraph (1) at
21 the firm power rate.

22 (4) ADDITIONAL POWER.—

23 (A) IN GENERAL.—If power, in addition to
24 that made available to the Dry-Redwater Re-
25 gional Water Authority System under para-

1 graph (1), is necessary to meet the pumping re-
2 quirements of the Dry-Redwater Regional
3 Water Authority, the Administrator may pur-
4 chase the necessary additional power at the best
5 available rate.

6 (B) REIMBURSEMENT.—The cost of pur-
7 chasing additional power shall be reimbursed to
8 the Administrator by the Dry-Redwater Re-
9 gional Water Authority.

10 (5) RESPONSIBILITY FOR POWER CHARGES.—
11 The Dry-Redwater Regional Water Authority shall
12 be responsible for the payment of the power charge
13 described in paragraph (4) and non-Federal delivery
14 costs described in paragraph (6).

15 (6) TRANSMISSION ARRANGEMENTS.—

16 (A) IN GENERAL.—The Dry-Redwater Re-
17 gional Water Authority System shall be respon-
18 sible for all non-Federal transmission and dis-
19 tribution system delivery and service arrange-
20 ments.

21 (B) UPGRADES.—The Dry-Redwater Re-
22 gional Water Authority System shall be respon-
23 sible for funding any transmission upgrades, if
24 required, to the integrated system necessary to

1 deliver power to the Dry-Redwater Regional
2 Water Authority System.

3 **SEC. 6. WATER RIGHTS.**

4 Nothing in this Act—

5 (1) preempts or affects any State water law; or

6 (2) affects any authority of a State, as in effect
7 on the date of enactment of this Act, to manage
8 water resources within that State.

9 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

10 (a) **AUTHORIZATION.**—There are authorized to be ap-
11 propriated such sums as are necessary to carry out the
12 planning, design, and construction of the Water Systems,
13 substantially in accordance with the cost estimate set forth
14 in the applicable feasibility study or feasibility report de-
15 scribed in section 4(a).

16 (b) **COST INDEXING.**—

17 (1) **IN GENERAL.**—The amount authorized to
18 be appropriated under subsection (a) may be in-
19 creased or decreased in accordance with ordinary
20 fluctuations in development costs incurred after the
21 applicable date specified in paragraph (2), as indi-
22 cated by any available engineering cost indices appli-
23 cable to construction activities that are similar to
24 the construction of the Water Systems.

1 (2) APPLICABLE DATES.—The date referred to
2 in paragraph (1) is—

3 (A) in the case of the Dry-Redwater Re-
4 gional Water Authority System, January 1,
5 2008; and

6 (B) in the case of the Musselshell-Judith
7 Rural Water Authority System, November 1,
8 2014.

○