

Calendar No. 659

115TH CONGRESS
2D SESSION

S. 685

[Report No. 115–373]

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

NOVEMBER 15, 2018

Reported by Ms. MURKOWSKI, with an amendment and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in *italie*]

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Clean Water for Rural
3 Communities Act”.

4 **SEC. 2. PURPOSE.**

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

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

12 (2) McKenzie County, North Dakota.

13 **SEC. 3. DEFINITIONS.**

14 In this Act:

15 (1) **ADMINISTRATOR.**—The term “Adminis-
16 trator” means the Administrator of the Western
17 Area Power Administration.

18 (2) **AUTHORITY.**—The term “Authority”
19 means—

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

22 (i) the Dry-Redwater Regional Water
23 Authority, which is a publicly owned non-
24 profit water authority formed in accord-
25 ance with Mont. Code Ann. § 75-6-302
26 (2007); and

1 (ii) any nonprofit successor entity to
 2 the Authority described in clause (i); and
 3 ~~(B) in the case of the Musselshell-Judith~~
 4 Rural Water System—

5 (i) the Central Montana Regional
 6 Water Authority, which is a publicly owned
 7 nonprofit water authority formed in ac-
 8 cordance with Mont. Code Ann. § 75-6-
 9 302 (2007); and

10 (ii) any nonprofit successor entity to
 11 the Authority described in clause (i).

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

18 ~~(A) Garfield and McCone Counties in the~~
 19 State;

20 ~~(B) the area west of the Yellowstone River~~
 21 in Dawson and Richland Counties in the State;

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

1 ~~(D)~~ the portion of McKenzie County,
 2 North Dakota, that includes all land that is lo-
 3 cated west of the Yellowstone River in the State
 4 of North Dakota.

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

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

15 ~~(A)~~ Judith Basin, Wheatland, Golden Val-
 16 ley, and Musselshell Counties in the State;

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

23 ~~(C)~~ the portion of Fergus County in the
 24 State within 2 miles of U.S. Highway 87 and
 25 within 4 miles of the county line between Fer-

1 gus and Judith Basin Counties in the State, in-
 2 clusive of the Town of Moore, Montana.

3 ~~(6) NON-FEDERAL DISTRIBUTION SYSTEM.—~~

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

8 ~~(7) PICK-SLOAN PROGRAM.—~~The term “Pick-
 9 Sloan program” means the Pick-Sloan Missouri
 10 River Basin Program (authorized by section 9 of the
 11 Act of December 22, 1944 (commonly known as the
 12 “Flood Control Act of 1944”) (58 Stat. 891, chapter
 13 665)).

14 ~~(8) SECRETARY.—~~The term “Secretary” means
 15 the Secretary of the Interior.

16 ~~(9) STATE.—~~The term “State” means the State
 17 of Montana.

18 ~~(10) WATER SYSTEM.—~~The term “Water Sys-
 19 tem” means—

20 (A) the Dry-Redwater Regional Water Au-
 21 thority System; and

22 (B) the Musselshell-Judith Rural Water
 23 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

1 construction of the Water Systems shall not ex-
 2 ceed—

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

5 (I) 75 percent of the total cost of
 6 the Dry-Redwater Regional Water Au-
 7 thority System; or

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

12 (ii) in the case of the Musselshell-Ju-
 13 dith Rural Water System, 75 percent of
 14 the total cost of the Musselshell-Judith
 15 Rural Water System.

16 (B) LIMITATION.—Amounts made avail-
 17 able under subparagraph (A) shall not be re-
 18 turnable or reimbursable under the reclamation
 19 laws.

20 (2) USE OF FEDERAL FUNDS.—

21 (A) GENERAL USES.—Subject to subpara-
 22 graphs (B) and (C), the Water Systems may
 23 use Federal funds made available to carry out
 24 this section for—

25 (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 (v) any interconnection facility that
8 connects a pipeline of the Water System to
9 a pipeline of a public water system;

10 (vi) electrical power transmission and
11 distribution facilities required for the operation and maintenance of the Water System;
12
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 (viii) any property or property right
19 required for the construction or operation
20 of a facility described in this subsection.

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

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

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 (H) 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-

graph (1), is necessary to meet the pumping requirements of the Dry-Redwater Regional Water Authority, the Administrator may purchase the necessary additional power at the best available rate.

(B) REIMBURSEMENT.—The cost of purchasing additional power shall be reimbursed to the Administrator by the Dry-Redwater Regional Water Authority.

(5) RESPONSIBILITY FOR POWER CHARGES.—

The Dry-Redwater Regional Water Authority shall be responsible for the payment of the power charge described in paragraph (4) and non-Federal delivery costs described in paragraph (6).

(6) TRANSMISSION ARRANGEMENTS.—

(A) IN GENERAL.—The Dry-Redwater Regional Water Authority System shall be responsible for all non-Federal transmission and distribution system delivery and service arrangements.

(B) UPGRADES.—The Dry-Redwater Regional Water Authority System shall be responsible for funding any transmission upgrades, if 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.~~

9 **SECTION 1. SHORT TITLE.**

10 *This Act may be cited as the “Clean Water for Rural*
 11 *Communities Act”.*

12 **SEC. 2. PURPOSE.**

13 *The purpose of this Act is to ensure a safe and ade-*
 14 *quate municipal, rural, and industrial water supply for the*
 15 *citizens of—*

16 *(1) Dawson, Garfield, McCone, Prairie, Rich-*
 17 *land, Judith Basin, Wheatland, Golden Valley, Fer-*
 18 *gus, Yellowstone, and Musselshell Counties in the*
 19 *State of Montana; and*

20 *(2) McKenzie County, North Dakota.*

21 **SEC. 3. DEFINITIONS.**

22 *In this Act:*

23 *(1) AUTHORITY.—The term “Authority”*
 24 *means—*

1 (A) *the Central Montana Regional Water*
 2 *Authority, a publicly owned nonprofit water au-*
 3 *thority formed in accordance with Mont. Code*
 4 *Ann. Sec. 75-6-302 (2007); and*

5 (B) *any nonprofit successor entity to the*
 6 *Authority described in subparagraph (A).*

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

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

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

19 (C) *the portion of Fergus County in the*
 20 *State within 2 miles of U.S. Highway 87 and*
 21 *within 4 miles of the county line between Fergus*
 22 *and Judith Basin Counties in the State, inclu-*
 23 *sive of the Town of Moore, Montana.*

24 (3) *SECRETARY.—The term “Secretary” means*
 25 *the Secretary of the Interior.*

1 (4) *STATE*.—*The term “State” means the State*
 2 *of Montana.*

3 **SEC. 4. MUSSELHELL-JUDITH RURAL WATER SYSTEM.**

4 (a) *AUTHORIZATION*.—*The Secretary may carry out*
 5 *the planning, design, and construction of the Musselshell-*
 6 *Judith Rural Water System in a manner that is substan-*
 7 *tially in accordance with the feasibility report entitled*
 8 *“Musselshell-Judith Rural Water System Feasibility Re-*
 9 *port” (including any and all revisions of the report).*

10 (b) *COOPERATIVE AGREEMENT*.—*The Secretary shall*
 11 *enter into a cooperative agreement with the Authority to*
 12 *provide Federal assistance for the planning, design, and*
 13 *construction of the Musselshell-Judith Rural Water System.*

14 (c) *COST-SHARING REQUIREMENT*.—

15 (1) *FEDERAL SHARE*.—

16 (A) *IN GENERAL*.—*The Federal share of the*
 17 *costs relating to the planning, design, and con-*
 18 *struction of the Musselshell-Judith Rural Water*
 19 *System shall not exceed 65 percent of the total*
 20 *cost of the Musselshell-Judith Rural Water Sys-*
 21 *tem.*

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

25 (2) *USE OF FEDERAL FUNDS*.—

1 (A) *GENERAL USES.*—Subject to subpara-
 2 graph (B), the Musselshell-Judith Rural Water
 3 System may use Federal funds made available to
 4 carry out this section for—

5 (i) facilities relating to—

6 (I) water pumping;

7 (II) water treatment;

8 (III) water storage;

9 (IV) water supply wells;

10 (V) distribution pipelines; and

11 (VI) control systems;

12 (ii) transmission pipelines;

13 (iii) pumping stations;

14 (iv) appurtenant buildings, mainte-
 15 nance equipment, and access roads;

16 (v) any interconnection facility that
 17 connects a pipeline of the Musselshell-Judith
 18 Rural Water System to a pipeline of a pub-
 19 lic water system;

20 (vi) electrical power transmission and
 21 distribution facilities required for the oper-
 22 ation and maintenance of the Musselshell-
 23 Judith Rural Water System;

24 (vii) any other facility or service re-
 25 quired for the development of a rural water

1 *distribution system, as determined by the*
 2 *Secretary; and*

3 *(viii) any property or property right*
 4 *required for the construction or operation of*
 5 *a facility described in this subsection.*

6 *(B) LIMITATION.—Federal funds made*
 7 *available to carry out this section shall not be*
 8 *used for the operation, maintenance, or replace-*
 9 *ment of the Musselshell-Judith Rural Water Sys-*
 10 *tem.*

11 *(C) TITLE.—Title to the Musselshell-Judith*
 12 *Rural Water System shall be held by the Author-*
 13 *ity.*

14 **SEC. 5. DRY-REDWATER FEASIBILITY STUDY.**

15 *(a) DEFINITIONS.—In this section:*

16 *(1) DRY-REDWATER REGIONAL WATER AUTHOR-*
 17 *ITY.—The term “Dry-Redwater Regional Water Au-*
 18 *thority” means—*

19 *(A) the Dry-Redwater Regional Water Au-*
 20 *thority, a publicly owned nonprofit water au-*
 21 *thority formed in accordance with Mont. Code*
 22 *Ann. § 75–6–302 (2007); and*

23 *(B) any nonprofit successor entity to the*
 24 *Authority described in subparagraph (A).*

1 (2) *DRY-REDWATER REGIONAL WATER AUTHOR-*
 2 *ITY SYSTEM.*—*The term “Dry-Redwater Regional*
 3 *Water Authority System” means the project entitled*
 4 *the “Dry-Redwater Regional Water Authority Sys-*
 5 *tem”, with a project service area that includes—*

6 (A) *Garfield and McCone Counties in the*
 7 *State;*

8 (B) *the area west of the Yellowstone River*
 9 *in Dawson and Richland Counties in the State;*

10 (C) *T. 15 N. (including the area north of*
 11 *the Township) in Prairie County in the State;*
 12 *and*

13 (D) *the portion of McKenzie County, North*
 14 *Dakota, that includes all land that is located*
 15 *west of the Yellowstone River in the State of*
 16 *North Dakota.*

17 (3) *RECLAMATION FEASIBILITY STANDARDS.*—
 18 *The term “reclamation feasibility standards” means*
 19 *the eligibility criteria and feasibility study require-*
 20 *ments described in section 106 of the Reclamation*
 21 *Rural Water Supply Act of 2006 (43 U.S.C. 2405)*
 22 *(as in effect on September 29, 2016).*

23 (4) *SUBMITTED FEASIBILITY STUDY.*—*The term*
 24 *“submitted feasibility study” means the feasibility*
 25 *study entitled “Dry-Redwater Regional Water System*

1 *Feasibility Study*” (including revisions of the study),
2 *which received funding from the Bureau of Reclama-*
3 *tion on September 1, 2010.*

4 **(b) STUDY.—**

5 **(1) IN GENERAL.—***The Secretary, in consultation*
6 *with the Dry-Redwater Regional Water Authority,*
7 *may undertake a study, including a review of the sub-*
8 *mitted feasibility study, to determine the feasibility of*
9 *constructing the Dry-Redwater Regional Water Sys-*
10 *tem.*

11 **(2) REQUIREMENT.—***The study under paragraph*
12 *(1) shall comply with the reclamation feasibility*
13 *standards.*

14 **(c) COOPERATIVE AGREEMENT.—***If the Secretary de-*
15 *termines that the study under subsection (b) does not com-*
16 *ply with the reclamation feasibility standards, the Sec-*
17 *retary may enter into a cooperative agreement with the*
18 *Dry-Redwater Regional Water Authority to complete addi-*
19 *tional work to ensure that the study complies with the rec-*
20 *lamation feasibility standards.*

21 **(d) AUTHORIZATION OF APPROPRIATIONS.—***There is*
22 *authorized to be appropriated to the Secretary \$5,000,000*
23 *to carry out this section.*

1 (e) *TERMINATION.*—*The authority provided by this*
 2 *section shall expire on the date that is 5 years after the*
 3 *date of enactment of this Act.*

4 **SEC. 6. WATER RIGHTS.**

5 *Nothing in this Act—*

6 (1) *preempts or affects any State water law; or*

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

10 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

11 (a) *AUTHORIZATION.*—*There is authorized to be ap-*
 12 *propriated to carry out the planning, design, and construc-*
 13 *tion of the Musselshell-Judith Rural Water System, sub-*
 14 *stantially in accordance with the cost estimate set forth in*
 15 *the feasibility report described in section 4(a), \$56,650,000.*

16 (b) *COST INDEXING.*—*The amount authorized to be ap-*
 17 *propriated under subsection (a) may be increased or de-*
 18 *creased in accordance with ordinary fluctuations in devel-*
 19 *opment costs incurred after November 1, 2014, as indicated*
 20 *by any available engineering cost indices applicable to con-*
 21 *struction activities that are similar to the construction of*
 22 *the Musselshell-Judith Rural Water System.*

Amend the title so as to read: “A bill to authorize the construction of the Musselshell-Judith Rural Water System and study of the Dry-Redwater Regional Water

Authority System in the States of Montana and North Dakota, and for other purposes.”.

Calendar No. 659

115TH CONGRESS
2D Session

S. 685

[Report No. 115-373]

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.

NOVEMBER 15, 2018

Reported with an amendment and an amendment to the title