

106TH CONGRESS  
1ST SESSION

# H. R. 2918

To amend Public Law 89–108 to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, to deauthorize certain project features and irrigation service areas, to enhance natural resources and fish and wildlife habitat, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 1999

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

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## A BILL

To amend Public Law 89–108 to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, to deauthorize certain project features and irrigation service areas, to enhance natural resources and fish and wildlife habitat, 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 “Dakota Water Re-  
3 sources Act of 1999”.

4 **SEC. 2. PURPOSES AND AUTHORIZATION.**

5 Section 1 of Public Law 89–108 (79 Stat. 433; 100  
6 Stat. 418) is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (2), by striking “of” and  
9 inserting “within”;

10 (B) in paragraph (5), by striking “more  
11 timely” and inserting “appropriate”; and

12 (C) in paragraph (7), by striking “feder-  
13 ally-assisted water resource development project  
14 providing irrigation for 130,940 acres of land”  
15 and inserting “multipurpose federally assisted  
16 water resource project providing irrigation, mu-  
17 nicipal, rural, and industrial water systems,  
18 fish, wildlife, and other natural resource con-  
19 servation and development, recreation, flood  
20 control, ground water recharge, and augmented  
21 stream flows”;

22 (2) in subsection (b)—

23 (A) by inserting “, jointly with the State of  
24 North Dakota,” after “construct”;

25 (B) by striking “the irrigation of 130,940  
26 acres” and inserting “irrigation”;

1 (C) by striking “fish and wildlife conserva-  
2 tion” and inserting “fish, wildlife, and other  
3 natural resource conservation”;

4 (D) by inserting “augmented stream flows,  
5 ground water recharge,” after “flood control,”;  
6 and

7 (E) by inserting “(as modified by the Da-  
8 kota Water Resources Act of 1999)” before the  
9 period at the end;

10 (3) in subsection (e), by striking “terminated”  
11 and all that follows and inserting “terminated.”; and

12 (4) by striking subsections (f) and (g) and in-  
13 serting the following:

14 “(f) COSTS.—

15 “(1) ESTIMATE.—The Secretary shall  
16 estimate—

17 “(A) the actual construction costs of the  
18 facilities (including mitigation facilities) in ex-  
19 istence as of the date of enactment of the Da-  
20 kota Water Resources Act of 1999; and

21 “(B) the annual operation, maintenance,  
22 and replacement costs associated with the used  
23 and unused capacity of the features in existence  
24 as of that date.

1           “(2) REPAYMENT CONTRACT.—An appropriate  
2           repayment contract shall be negotiated that provides  
3           for the making of a payment for each payment pe-  
4           riod in an amount that is commensurate with the  
5           percentage of the total capacity of the project that  
6           is in actual use during the payment period.

7           “(3) OPERATION AND MAINTENANCE COSTS.—  
8           Except as otherwise provided in this Act or Rec-  
9           lamation law—

10                   “(A) The Secretary shall be responsible for  
11                   the costs of operation and maintenance of the  
12                   proportionate share of unit facilities in exist-  
13                   ence on the date of enactment of the Dakota  
14                   Water Resources Act of 1999 attributable to  
15                   the capacity of the facilities (including mitiga-  
16                   tion facilities) that remain unused.

17                   “(B) The State of North Dakota shall be  
18                   responsible for costs of operation and mainte-  
19                   nance of the proportionate share of existing  
20                   unit facilities that are used and shall be respon-  
21                   sible for the full costs of operation and mainte-  
22                   nance of any facility constructed after the date  
23                   of enactment of the Dakota Water Resources  
24                   Act of 1999.

1           “(C) The State of North Dakota shall be  
2           responsible for the cost of providing energy to  
3           authorized unit facilities.

4           “(g) AGREEMENT BETWEEN THE SECRETARY AND  
5 THE STATE.—The Secretary shall enter into 1 or more  
6 agreements with the State of North Dakota to carry out  
7 this Act, including operation and maintenance of the com-  
8 pleted unit facilities and the design and construction of  
9 authorized new unit facilities by the State.

10          “(h) BOUNDARY WATERS TREATY OF 1909.—

11           “(1) DELIVERY OF WATER INTO THE HUDSON  
12 BAY BASIN.—Prior to construction of any water sys-  
13 tems authorized under this Act to deliver Missouri  
14 River water into the Hudson Bay basin, the Sec-  
15 retary, in consultation with the Secretary of State  
16 and the Administrator of the Environmental Protec-  
17 tion Agency, must determine that adequate treat-  
18 ment can be provided to meet the requirements of  
19 the Treaty between the United States and Great  
20 Britain relating to Boundary Water Between the  
21 United States and Canada, signed at Washington  
22 January 11, 1909 (26 Stat. 2448; TS 548) (com-  
23 monly known as the ‘Boundary Waters Treaty Act  
24 of 1909’).

1           “(2) COSTS.—All costs of construction, oper-  
2           ation, maintenance, and replacement of water treat-  
3           ment and related facilities authorized by this Act  
4           and attributable to meeting the requirements of the  
5           treaty referred to in paragraph (1) shall be non-  
6           reimbursable.”.

7   **SEC. 3. FISH AND WILDLIFE.**

8           Section 2 of Public Law 89–108 (79 Stat. 433; 100  
9           Stat. 419) is amended—

10           (1) by striking subsections (b), (c), and (d) and  
11           inserting the following:

12           “(b) FISH AND WILDLIFE COSTS.—All fish and wild-  
13           life enhancement costs incurred in connection with water-  
14           fowl refuges, waterfowl production areas, and wildlife con-  
15           servation areas proposed for Federal or State administra-  
16           tion shall be nonreimbursable.

17           “(c) RECREATION AREAS.—

18           “(1) COSTS.—If non-Federal public bodies con-  
19           tinue to agree to administer land and water areas  
20           approved for recreation and agree to bear not less  
21           than 50 percent of the separable costs of the unit al-  
22           located to recreation and attributable to those areas  
23           and all the costs of operation, maintenance, and re-  
24           placement incurred in connection therewith, the re-

1       mainder of the separable capital costs so allocated  
2       and attributed shall be nonreimbursable.

3               “(2) APPROVAL.—The recreation areas shall be  
4       approved by the Secretary in consultation and co-  
5       ordination with the State of North Dakota.

6               “(d) NON-FEDERAL SHARE.—The non-Federal share  
7       of the separable capital costs of the unit allocated to recre-  
8       ation shall be borne by non-Federal interests, using the  
9       following methods, as the Secretary may determine to be  
10      appropriate:

11              “(1) Services in kind.

12              “(2) Payment, or provision of lands, interests  
13      therein, or facilities for the unit.

14              “(3) Repayment, with interest, within 50 years  
15      of first use of unit recreation facilities.”;

16              (2) in subsection (e)—

17                  (A) by redesignating paragraphs (1) and  
18                  (2) as paragraphs (2) and (3), respectively;

19                  (B) by inserting “(1)” after “(e)”;

20                  (C) in paragraph (2) (as redesignated by  
21                  subparagraph (A))—

22                      (i) in the first sentence—

23                          (I) by striking “within ten years  
24                          after initial unit operation to admin-  
25                          ister for recreation and fish and wild-

1 life enhancement” and inserting “to  
2 administer for recreation”; and

3 (II) by striking “which are not  
4 included within Federal waterfowl ref-  
5 uges and waterfowl production areas”;  
6 and

7 (ii) in the second sentence, by striking  
8 “or fish and wildlife enhancement”; and

9 (D) in the first sentence of paragraph (3)  
10 (as redesignated by subparagraph (A))—

11 (i) by striking “, within ten years  
12 after initial operation of the unit,”; and

13 (ii) by striking “paragraph (1) of this  
14 subsection” and inserting “paragraph (2)”;

15 (3) in subsection (f), by striking “and fish and  
16 wildlife enhancement”; and

17 (4) in subsection (j)—

18 (A) in paragraph (1), by striking “prior to  
19 the completion of construction of Lonetree Dam  
20 and Reservoir”; and

21 (B) by adding at the end the following:

22 “(4) TAAYER RESERVOIR.—Taayer Reservoir is  
23 deauthorized as a project feature. The Secretary,  
24 acting through the Commissioner of Reclamation,  
25 shall acquire (including acquisition through donation



1 or exchange) up to 5,000 acres in the Kraft and  
2 Pickell Slough areas and to manage the area as a  
3 component of the National Wildlife Refuge System  
4 giving consideration to the unique wildlife values of  
5 the area. In acquiring the lands which comprise the  
6 Kraft and Pickell Slough complex, the Secretary  
7 shall acquire wetlands in the immediate vicinity  
8 which may be hydrologically related and nearby up-  
9 lands as may be necessary to provide for proper  
10 management of the complex. The Secretary shall  
11 provide for appropriate visitor access and control at  
12 the refuge.

13 “(5) DEAUTHORIZATION OF LONETREE DAM  
14 AND RESERVOIR.—The Lonetree Dam and Reservoir  
15 is deauthorized, and the Secretary shall designate  
16 the lands acquired for the former reservoir site as a  
17 wildlife conservation area. The Secretary shall enter  
18 into an agreement with the State of North Dakota  
19 providing for the operation and maintenance of the  
20 wildlife conservation area as an enhancement fea-  
21 ture, the costs of which shall be paid by the Sec-  
22 retary. If the features selected under section 8 in-  
23 clude a buried pipeline and appurtenances between  
24 the McClusky Canal and New Rockford Canal, the  
25 use of the wildlife conservation area and Sheyenne

1 Lake National Wildlife Refuge for such route is  
2 hereby authorized.”.

3 **SEC. 4. INTEREST CALCULATION.**

4 Section 4 of Public Law 89–108 (100 Stat. 435) is  
5 amended by adding at the end the following: “Interest  
6 during construction shall be calculated only until such  
7 date as the Secretary declares any particular feature to  
8 be substantially complete, regardless of whether the fea-  
9 ture is placed into service.”.

10 **SEC. 5. IRRIGATION FACILITIES.**

11 Section 5 of Public Law 89–108 (100 Stat. 419) is  
12 amended—

13 (1) by striking “SEC. 5. (a)(1)” and all that  
14 follows through subsection (c) and inserting the fol-  
15 lowing:

16 **“SEC. 5. IRRIGATION FACILITIES.**

17 **“(a) IN GENERAL.—**

18 **“(1) AUTHORIZED DEVELOPMENT.—**In addition  
19 to the 5,000-acre Oakes Test Area in existence on  
20 the date of enactment of the Dakota Water Re-  
21 sources Act of 1999, the Secretary may develop irri-  
22 gation in—

23 **“(A) the Turtle Lake service area (13,700**  
24 **acres);**

1           “(B) the McClusky Canal service area  
2           (10,000 acres); and

3           “(C) if the investment costs are fully reim-  
4           bursed without aid to irrigation from the Pick-  
5           Sloan Missouri Basin Program, the New Rock-  
6           ford Canal service area (1,200 acres).

7           “(2) DEVELOPMENT NOT AUTHORIZED.—None  
8           of the irrigation authorized by this section may be  
9           developed in the Hudson Bay/Devils Lake Basin.

10          “(3) NO EXCESS DEVELOPMENT.—The Sec-  
11          retary shall not develop irrigation in the service  
12          areas described in paragraph (1) in excess of the  
13          acreage specified in that paragraph, except that the  
14          Secretary shall develop up to 28,000 acres of irriga-  
15          tion in other areas of North Dakota (such as the  
16          Elk/Charbonneau, Mon-Dak, Nesson Valley, Horse-  
17          head Flats, and Oliver-Mercer areas) that are not lo-  
18          cated in the Hudson Bay/Devils Lake drainage basin  
19          or James River drainage basin.

20          “(4) PUMPING POWER.—Irrigation development  
21          authorized by this section shall be considered au-  
22          thorized units of the Pick-Sloan Missouri Basin Pro-  
23          gram and eligible to receive project pumping power.

24          “(5) PRINCIPAL SUPPLY WORKS.—The Sec-  
25          retary shall maintain the Snake Creek Pumping

1 Plant, New Rockford Canal and McClusky Canal  
2 features of the principal supply works. As appro-  
3 priate, the Secretary shall rehabilitate or complete  
4 such features consistent with the purposes of this  
5 Act. Subject to the provisions of sections 8(c) and  
6 8(d)(1) of this Act, the Secretary shall select a pre-  
7 ferred alternative to implement the Dakota Water  
8 Resources Act of 1999. In making this selection, one  
9 of the alternatives the Secretary shall consider is  
10 whether to connect the principal supply works in ex-  
11 istence on the date of enactment.”.

12 (2) by redesignating subsections (d), (e), and  
13 (f) as subsections (b), (c), and (d), respectively;

14 (3) in the first sentence of subsection (b) (as  
15 redesignated by paragraph (2)), by striking “(a)(1)”  
16 and inserting “(a)”;

17 (4) in the first sentence of subsection (c) (as re-  
18 designated by paragraph (2)), by striking “Lucky  
19 Mound (7,700 acres), Upper Six Mile Creek (7,500  
20 acres)” and inserting “Lucky Mound (7,700 acres)  
21 and Upper Six Mile Creek (7,500 acres), or such  
22 other lands at Fort Berthold of equal acreage as  
23 may be selected by the tribe and approved by the  
24 Secretary,”; and

25 (5) by adding at the end the following:

1 “(e) IRRIGATION REPORT TO CONGRESS.—

2 “(1) IN GENERAL.—The Secretary shall inves-  
3 tigate and prepare a detailed report on the undesig-  
4 nated 28,000 acres in subsection (a)(3) as to costs  
5 and benefits for any irrigation units to be developed  
6 under Reclamation law.

7 “(2) FINDING.—The report shall include a find-  
8 ing on the economic, financial, and engineering fea-  
9 sibility of the proposed irrigation unit, but shall be  
10 limited to the undesignated 28,000 acres.

11 “(3) AUTHORIZATION.—If the Secretary finds  
12 that the proposed construction is feasible, such irri-  
13 gation units are authorized without further Act of  
14 Congress.

15 “(4) DOCUMENTATION.—No expenditure for  
16 the construction of facilities authorized under this  
17 section shall be made until after the Secretary, in  
18 cooperation with the State of North Dakota, has  
19 prepared the appropriate documentation in accord-  
20 ance with section 1 and pursuant to the National  
21 Environmental Policy Act of 1969 (42 U.S.C. 4321  
22 et seq.) analyzing the direct and indirect impacts of  
23 implementing the report.”.

1 **SEC. 6. POWER.**

2 Section 6 of Public Law 89–108 (79 Stat. 435; 100  
3 Stat. 421) is amended—

4 (1) in subsection (b)—

5 (A) by striking “Notwithstanding the pro-  
6 visions of” and inserting “Pursuant to the pro-  
7 visions of”; and

8 (B) by striking “revenues,” and all that  
9 follows and inserting “revenues.”; and

10 (2) by striking subsection (c) and inserting the  
11 following:

12 “(c) **NO INCREASE IN RATES OR EFFECT ON REPAY-**  
13 **MENT METHODOLOGY.**—In accordance with the last sen-  
14 tence of section 302(a)(3) of the Department of Energy  
15 Organization Act (42 U.S.C. 7152(a)(3), section 1(e) shall  
16 not result in any reallocation of project costs and shall  
17 not result in increased rates to Pick-Sloan Missouri Basin  
18 Program customers. Nothing in the Dakota Water Re-  
19 sources Act of 1999 alters or affects in any way the repay-  
20 ment methodology in effect as of the date of enactment  
21 of that Act for other features of the Pick-Sloan Missouri  
22 Basin Program.”.

23 **SEC. 7. MUNICIPAL, RURAL, AND INDUSTRIAL WATER**  
24 **SERVICE.**

25 Section 7 of Public Law 89–108 (100 Stat. 422) is  
26 amended—

1 (1) in subsection (a)(3)—

2 (A) in the second sentence—

3 (i) by striking “The non-Federal  
4 share” and inserting “Unless otherwise  
5 provided in this Act, the non-Federal  
6 share”;

7 (ii) by striking “each water system”  
8 and inserting “water systems”;

9 (iii) by inserting after the second sen-  
10 tence the following: “The State may use  
11 the Federal and non-Federal funds to pro-  
12 vide grants or loans for municipal, rural,  
13 and industrial water systems. The State  
14 shall use the proceeds of repaid loans for  
15 municipal, rural, and industrial water sys-  
16 tems. Proceeds from loan repayments and  
17 any interest thereon shall be treated as  
18 Federal funds.”; and

19 (iv) by striking the last sentence and  
20 inserting the following: “The Southwest  
21 Pipeline Project, the Northwest Area  
22 Water Supply Project, the Red River Val-  
23 ley Water Supply Project, and other mu-  
24 nicipal, industrial, and rural water systems  
25 in the State of North Dakota shall be eligi-

1           ble for funding under the terms of this sec-  
2           tion. Funding provided under this section  
3           for the Red River Valley Water Supply  
4           Project shall be in addition to funding for  
5           that project under section 10(a)(1)(B).  
6           The amount of non-Federal contributions  
7           made after May 12, 1986, that exceeds the  
8           25 percent requirement shall be credited to  
9           the State for future use in municipal,  
10          rural, and industrial projects under this  
11          section.”; and

12           (2) by striking subsections (b), (c), and (d) and  
13          inserting the following:

14          “(b) WATER CONSERVATION PROGRAM.—The State  
15          of North Dakota may use funds provided under sub-  
16          sections (a) and (b)(1)(A) of section 10 to develop and  
17          implement a water conservation program. The Secretary  
18          and the State shall jointly establish water conservation  
19          goals to meet the purposes of the State program and to  
20          improve the availability of water supplies to meet the pur-  
21          poses of this Act. If the State achieves the established  
22          water conservation goals, the non-Federal cost share for  
23          future projects under subsection (a)(3) shall be reduced  
24          to 24.5 percent.



1       “(c) NONREIMBURSABILITY OF COSTS.—With re-  
2 spect to the Southwest Pipeline Project, the Northwest  
3 Area Water Supply Project, the Red River Valley Water  
4 Supply Project, and other municipal, industrial, and rural  
5 water systems in North Dakota, the costs of the features  
6 constructed on the Missouri River by the Secretary of the  
7 Army before the date of enactment of the Dakota Water  
8 Resources Act of 1999 shall be nonreimbursable.

9       “(d) INDIAN MUNICIPAL RURAL AND INDUSTRIAL  
10 WATER SUPPLY.—The Secretary shall construct, operate,  
11 and maintain such municipal, rural, and industrial water  
12 systems as the Secretary determines to be necessary to  
13 meet the economic, public health, and environmental needs  
14 of the Fort Berthold, Standing Rock, Turtle Mountain (in-  
15 cluding the Trenton Indian Service Area), and Fort  
16 Totten Indian Reservations and adjacent areas.”.

17 **SEC. 8. SPECIFIC FEATURES.**

18       (a) IN GENERAL.—Public Law 89–108 (100 Stat.  
19 423) is amended by striking section 8 and inserting the  
20 following:

21 **“SEC. 8. SPECIFIC FEATURES.**

22       “(a) RED RIVER VALLEY WATER SUPPLY  
23 PROJECT.—

24               “(1) IN GENERAL.—The Secretary shall con-  
25       struct a feature or features to deliver Missouri River

1 water to the Sheyenne River water supply and re-  
2 lease facility or such other feature or features as are  
3 selected under subsection (d).

4 “(2) DESIGN AND CONSTRUCTION.—The fea-  
5 ture shall be designed and constructed to meet only  
6 the water delivery requirements of the irrigation  
7 areas, municipal, rural, and industrial water supply  
8 needs, ground water recharge, and streamflow aug-  
9 mentation (as described in subsection (b)(2)) author-  
10 ized by this Act.

11 “(3) COMMENCEMENT OF CONSTRUCTION.—  
12 The Secretary may not commence construction on  
13 the feature until a master repayment contract or  
14 water service agreement consistent with this Act be-  
15 tween the Secretary and the appropriate non-Fed-  
16 eral entity has been executed.

17 “(b) REPORT ON RED RIVER VALLEY WATER NEEDS  
18 AND DELIVERY OPTIONS.—

19 “(1) IN GENERAL.—Pursuant to section 1(g),  
20 not later than 90 days after the date of enactment  
21 of the Dakota Water Resources Act of 1999, the  
22 Secretary and the State of North Dakota shall joint-  
23 ly submit to Congress a report on the comprehensive  
24 water quality and quantity needs of the Red River  
25 Valley and the options for meeting those needs, in-

1 cluding the delivery of Missouri River water to the  
2 Red River Valley.

3 “(2) NEEDS.—The needs addressed in the re-  
4 port shall include such needs as—

5 “(A) augmenting streamflows;

6 “(B) groundwater recharge; and

7 “(C) enhancing—

8 “(i) municipal, rural, and industrial  
9 water supplies;

10 “(ii) water quality;

11 “(iii) aquatic environment; and

12 “(iv) recreation.

13 “(3) STUDIES.—Existing and ongoing studies  
14 by the Bureau of Reclamation on Red River Water  
15 Supply needs and options shall be deemed to meet  
16 the requirements of this section.

17 “(c) ENVIRONMENTAL IMPACT STATEMENTS.—

18 “(1) DRAFT.—

19 “(A) DEADLINE.—Pursuant to an agree-  
20 ment between the Secretary and the State of  
21 North Dakota as authorized under section 1(g),  
22 not later than 1 year after the date of enact-  
23 ment of the Dakota Water Resources Act of  
24 1999, the Secretary and the State of North Da-  
25 kota shall jointly prepare and complete a draft

1 environmental impact statement concerning all  
2 feasible options to meet the comprehensive  
3 water quality and quantity needs of the Red  
4 River Valley and the options for meeting those  
5 needs, including possible alternatives for deliv-  
6 ering Missouri River water to the Red River  
7 Valley.

8 “(B) REPORT ON STATUS.—If the Sec-  
9 retary and State of North Dakota cannot pre-  
10 pare and complete the draft environmental im-  
11 pact statement within 1 year after the date of  
12 enactment of the Dakota Water Resources Act  
13 of 1999, the Secretary, in consultation and co-  
14 ordination with the State of North Dakota,  
15 shall report to Congress on the status of this  
16 activity, including an estimate of the date of  
17 completion.

18 “(2) FINAL.—

19 “(A) DEADLINE.—Not later than 1 year  
20 after filing the draft environmental impact  
21 statement, a final environmental impact state-  
22 ment shall be prepared and published.

23 “(B) REPORT ON STATUS.—If the Sec-  
24 retary and State of North Dakota cannot pre-  
25 pare and complete a final environmental impact

1 statement within 1 year of the completion of  
2 the draft environmental impact statement, the  
3 Secretary, in consultation and coordination with  
4 the State of North Dakota, shall report to Con-  
5 gress on the status of this activity, including an  
6 estimate of the date of completion.

7 “(d) PROCESS FOR SELECTION.—

8 “(1) IN GENERAL.—After reviewing the final  
9 report required by subsection (b)(1) and complying  
10 with subsection (c), the Secretary, in consultation  
11 and coordination with the State of North Dakota in  
12 coordination with affected local communities, shall  
13 select 1 or more project features described in sub-  
14 section (a) that will meet the comprehensive water  
15 quality and quantity needs of the Red River Valley.

16 “(2) AGREEMENTS.—Not later than 180 days  
17 after the record of decision has been executed, the  
18 Secretary shall enter into a cooperative agreement  
19 with the State of North Dakota to construct the fea-  
20 ture or features selected.

21 “(e) SHEYENNE RIVER WATER SUPPLY AND RE-  
22 LEASE OR ALTERNATE FEATURES.—The Secretary shall  
23 construct, operate, and maintain a Sheyenne River water  
24 supply and release feature (including a water treatment  
25 plant) capable of delivering 100 cubic feet per second of

1 water or any other amount determined in the reports  
2 under this section, for the cities of Fargo and Grand  
3 Forks and surrounding communities, or such other feature  
4 or features as may be selected under subsection (d).”.

5 **SEC. 9. OAKES TEST AREA TITLE TRANSFER.**

6 Public Law 89–108 (100 Stat. 423) is amended by  
7 striking section 9 and inserting the following:

8 **“SEC. 9. OAKES TEST AREA TITLE TRANSFER.**

9 “(a) IN GENERAL.—Not later than 2 years after exe-  
10 cution of a record of decision under section 8(d) on wheth-  
11 er to use the New Rockford Canal as a means of delivering  
12 water to the Red River Basin as described in section 8,  
13 the Secretary shall enter into an agreement with the State  
14 of North Dakota, or its designee, to convey title and all  
15 or any rights, interests, and obligations of the United  
16 States in and to the Oakes Test Area as constructed and  
17 operated under Public Law 99–294 (100 Stat. 418) under  
18 such terms and conditions as the Secretary believes would  
19 fully protect the public interest.

20 “(b) TERMS AND CONDITIONS.—The agreement shall  
21 define the terms and conditions of the transfer of the fa-  
22 cilities, lands, mineral estate, easements, rights-of-way  
23 and water rights including the avoidance of costs that the  
24 Federal Government would otherwise incur in the case of  
25 a failure to agree under subsection (d).

1       “(c) COMPLIANCE.—The action of the Secretary  
2 under this section shall comply with all applicable require-  
3 ments of Federal, State, and local law.

4       “(d) FAILURE TO AGREE.—If an agreement is not  
5 reached within the time limit specified in subsection (a),  
6 the Secretary shall dispose of the Oakes Test Area facili-  
7 ties under the Federal Property and Administrative Serv-  
8 ices Act of 1949 (40 U.S.C. 471 et seq.).”.

9       **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

10       Section 10 of Public Law 89–108 (100 Stat. 424;  
11 106 Stat. 4669, 4739) is amended—

12               (1) in subsection (a)—

13                       (A) by striking “(a)(1) There are author-  
14 ized” and inserting the following:

15       “(a) WATER DISTRIBUTION FEATURES.—

16               “(1) IN GENERAL.—

17                       “(A) MAIN STEM SUPPLY WORKS.—There  
18 is authorized”;

19                       (B) in paragraph (1)—

20                               (i) in the first sentence, by striking  
21 “\$270,395,000 for carrying out the provi-  
22 sions of section 5(a) through 5(c) and sec-  
23 tion 8(a)(1) of this Act” and inserting  
24 “\$164,000,000 to carry out section 5(a)”;

1 (ii) by inserting after subparagraph  
2 (A) (as designated by clause (i)) the fol-  
3 lowing:

4 “(B) RED RIVER VALLEY WATER SUPPLY  
5 PROJECT.—There is authorized to be appro-  
6 priated to carry out section 8(a)(1)  
7 \$200,000,000.”; and

8 (iii) by striking “Such sums” and in-  
9 serting the following:

10 “(C) AVAILABILITY.—Such sums”; and

11 (C) in paragraph (2)—

12 (i) by striking “(2) There is” and in-  
13 serting the following:

14 “(2) INDIAN IRRIGATION.—

15 “(A) IN GENERAL.—There is”;

16 (ii) by striking “for carrying out sec-  
17 tion 5(e) of this Act” and inserting “to  
18 carry out section 5(c)”;

19 (iii) by striking “Such sums” and in-  
20 serting the following:

21 “(B) AVAILABILITY.—Such sums”;

22 (2) in subsection (b)—

23 (A) by striking “(b)(1) There is” and in-  
24 serting the following:



1       “(b) MUNICIPAL, RURAL, AND INDUSTRIAL WATER  
2 SUPPLY.—

3           “(1) STATEWIDE.—

4               “(A) INITIAL AMOUNT.—There is”;

5               (B) in paragraph (1)—

6                   (i) by inserting before “Such sums”  
7 the following:

8               “(B) ADDITIONAL AMOUNT.—In addition  
9 to the amount under subparagraph (A), there is  
10 authorized to be appropriated to carry out sec-  
11 tion 7(a) \$200,000,000.”; and

12                   (ii) by striking “Such sums” and in-  
13 serting the following:

14               “(C) AVAILABILITY.—Such sums”; and

15               (C) in paragraph (2)—

16                   (i) by striking “(2) There are author-  
17 ized to be appropriated \$61,000,000” and  
18 all that follows through “Act.” and insert-  
19 ing the following:

20           “(2) INDIAN MUNICIPAL, RURAL, AND INDUS-  
21 TRIAL AND OTHER DELIVERY FEATURES.—

22               “(A) INITIAL AMOUNT.—There is author-  
23 ized to be appropriated—

24                   “(i) to carry out section 8(a)(1),  
25 \$40,500,000; and

1 “(ii) to carry out section 7(d),  
2 \$20,500,000.”;

3 (ii) by inserting before “Such sums”  
4 the following:

5 “(B) ADDITIONAL AMOUNT.—

6 “(i) IN GENERAL.—In addition to the  
7 amount under subparagraph (A), there is  
8 authorized to be appropriated to carry out  
9 section 7(d) \$200,000,000.

10 “(ii) ALLOCATION.—The amount  
11 under clause (i) shall be allocated as fol-  
12 lows:

13 “(I) \$30,000,000 to the Fort  
14 Totten Indian Reservation.

15 “(II) \$70,000,000 to the Fort  
16 Berthold Indian Reservation.

17 “(III) \$80,000,000 to the Stand-  
18 ing Rock Indian Reservation.

19 “(IV) \$20,000,000 to the Turtle  
20 Mountain Indian Reservation.”; and

21 (iii) by striking “Such sums” and in-  
22 serting the following:

23 “(C) AVAILABILITY.—Such sums”;

24 (3) in subsection (c)—

1 (A) by striking “(c) There is” and insert-  
2 ing the following:

3 “(c) RESOURCES TRUST AND OTHER PROVISIONS.—

4 “(1) INITIAL AMOUNT.—There is”; and

5 (B) by striking the second and third sen-  
6 tences and inserting the following:

7 “(2) ADDITIONAL AMOUNT.—In addition to  
8 amount under paragraph (1), there are authorized  
9 to be appropriated—

10 “(A) \$6,500,000 to carry out recreational  
11 projects; and

12 “(B) an additional \$25,000,000 to carry  
13 out section 11;

14 to remain available until expended.

15 “(3) RECREATIONAL PROJECTS.—Of the funds  
16 authorized under paragraph (2) for recreational  
17 projects, up to \$1,500,000 may be used to fund a  
18 wetland interpretive center in the State of North  
19 Dakota.

20 “(4) OPERATION AND MAINTENANCE.—

21 “(A) IN GENERAL.— There are authorized  
22 to be appropriated such sums as are necessary  
23 for operation and maintenance of the unit (in-  
24 cluding the mitigation and enhancement fea-  
25 tures).

1           “(B) AUTHORIZATION LIMITS.—Expendi-  
2           tures for operation and maintenance of features  
3           substantially completed and features con-  
4           structed before the date of enactment of the  
5           Dakota Water Resources Act of 1999, including  
6           funds expended for such purposes since the  
7           date of enactment of Public Law 99–294, shall  
8           not be counted against the authorization limits  
9           in this section.

10           “(5) MITIGATION AND ENHANCEMENT LAND.—  
11           On or about the date on which the features author-  
12           ized by section 8(a) are operational, a separate ac-  
13           count in the Natural Resources Trust authorized by  
14           section 11 shall be established for operation and  
15           maintenance of the mitigation and enhancement  
16           land associated with the unit.”; and

17                   (4) by striking subsection (e) and inserting  
18           the following:

19           “(e) INDEXING.—The \$200,000,000 amount under  
20           subsection (b)(1)(B), the \$200,000,000 amount under  
21           subsection (a)(1)(B), and the funds authorized under sub-  
22           section (b)(2) shall be indexed as necessary to allow for  
23           ordinary fluctuations of construction costs incurred after  
24           the date of enactment of the Dakota Water Resources Act  
25           of 1999 as indicated by engineering cost indices applicable

1 for the type of construction involved. All other authorized  
2 cost ceilings shall remain unchanged.”.

3 **SEC. 11. NATURAL RESOURCES TRUST.**

4 Section 11 of Public Law 89–108 (100 Stat. 424)  
5 is amended as follows:

6 (1) By striking subsection (a) and inserting the  
7 following:

8 “(a) CONTRIBUTION.—

9 “(1) INITIAL AUTHORIZATION.—

10 “(A) IN GENERAL.—From the sums appro-  
11 priated under section 10 for the Garrison Di-  
12 version Unit, the Secretary shall make an an-  
13 nual Federal contribution to a Natural Re-  
14 sources Trust established by non-Federal inter-  
15 ests in accordance with subsection (b) and oper-  
16 ated in accordance with subsection (c).

17 “(B) AMOUNT.—The total amount of Fed-  
18 eral contributions under subparagraph (A) shall  
19 not exceed \$12,000,000.

20 “(2) ADDITIONAL AUTHORIZATION.—

21 “(A) IN GENERAL.—In addition to the  
22 amount authorized in paragraph (1), the Sec-  
23 retary shall make annual Federal contributions  
24 to the Natural Resources Trust until the  
25 amount authorized by section 10(c)(2)(B) is

1 reached, in the manner stated in subparagraph  
2 (B).

3 “(B) ANNUAL AMOUNT.—The amount of  
4 the contribution under subparagraph (A) for  
5 each fiscal year shall be the amount that is  
6 equal to 5 percent of the total amount that is  
7 appropriated for the fiscal year under sub-  
8 sections (a)(1)(B) and (b)(1)(B) of section  
9 10.”.

10 (2) In subsection (b), by striking “Wetlands  
11 Trust” and inserting “Natural Resources Trust”.

12 (3) In subsection (c)—

13 (A) by striking “Wetland Trust” and in-  
14 serting “Natural Resources Trust”;

15 (B) by striking “are met” and inserting  
16 “is met”;

17 (C) in paragraph (1), by inserting “, grass-  
18 land conservation and riparian areas” after  
19 “habitat”; and

20 (D) in paragraph (2), by adding at the end  
21 the following:

22 “(C) The power to fund incentives for con-  
23 servation practices by landowners.”.

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