

1 **Notes: *Although every effort has been made to make this compilation as accurate as possible,***  
2 ***there is no guarantee given that every change has indeed been incorporated.***

3 **1) Black text is the original '65 Act**

4 **2) Red text is the "86 Act (Garrison Diversion Reformulation Act)**

5 **3) Gold text is from the '92 Reclamation Projects Authorization and Adjustment Act**

6 **4) Green text is from Dakota Water Resources Act (DWRA) of 2000**

7 **This document is best viewed by saving and then opening it in WP-8**

8  
9  
10 **GARRISON DIVERSION UNIT, MISSOURI RIVER BASIN PROJECT**

11 **The Act of August 5, 1965**

12 **(Public Law 89-108, 79 Stat 433)**

13 **as amended by**

14 **The Garrison Diversion Reformulation Act of 1986**

15 **(Public Law 99-294, 100 Stat 418)**

16 **and as further amended by Sec 3510 and 1701 of the**

17 **Reclamation Projects Authorization and Adjustment Act of 1992**

18 **(Public Law 102-575, 106 Stat 4600)**

19 **and as further amended by**

20 **The Dakota Water Resources Act of 2000 (Public Law 106-554)**

21  
22 *An act to make certain provisions in connection with the construction of the Garrison*  
23 *diversion unit, Missouri River Basin project, by the Secretary of the Interior. (Act*  
24 *of August 5, 1965, Public Law 89-108, 79 Stat. 433. The DWRA of 2000 was included as Title VI of PL 106-554)*  
25

26 **[Sec. 1. Garrison diversion unit authorized. ]—[That] The general plan for the**  
27 **Missouri-Souris unit of the Missouri River Basin project, heretofore authorized**  
28 **in section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887), as**  
29 **modified by the report of the Secretary of the Interior contained in House**  
30 **Document Numbered 325, Eighty-sixth Congress, second session, is confirmed**  
31 **and approved under the designation "(Garrison diversion unit," and the construction**  
32 **of a development providing for the irrigation of two hundred and**  
33 **fifty thousand acres, municipal and industrial water, fish and wildlife conservation**  
34 **and development, recreation, flood control, and other project purposes**  
35 **shall be prosecuted by the Department of the Interior substantially in accordance**  
36 **with the plans set out in the Bureau of Reclamation report dated November**  
37 **1962 (revised February 1965) supplemental report to said House Document**  
38 **Numbered 325. (79 Stat. 433)**

39 **"SECTION 1. (a) The Congress declares that the purposes of this Act are to:**

40 **"(1) implement the recommendations of the Garrison Diversion Unit Commission**  
41 **Final Report (dated December 20, 1984) in the manner specified by this Act;**

42 **"(2) meet the water needs of *within* the State of North Dakota, including municipal,**  
43 **rural and industrial water needs, as identified in the Garrison Diversion Unit Commission**  
44 **Final Report;**

1           "(3) minimize the environmental impacts associated with the construction and  
2 operation of the Garrison Diversion Unit; -  
3 "(4) assist the United States in meeting its responsibilities under the Boundary Waters  
4 Treaty of 1909;  
5 "(5) assure ~~more timely~~ *appropriate* repayment of Federal funds expended for the Garrison  
6 Diversion Unit;  
7 "(6) preserve any existing rights of the State of North Dakota to use water from the Missouri  
8 River; and,  
9 "(7) offset the loss of farmland within the State of North Dakota resulting from the  
10 construction of major features of the Pick-Sloan Missouri Basin Program, by means of a  
11 ~~federally-assisted water resource development project providing irrigation for 130,940 acres~~  
12 ~~of land.~~ *Multipurpose federally assisted water resource project providing irrigation,*  
13 *municipal, rural, and industrial water systems, fish, wildlife, and other natural resource*  
14 *conservation and development, recreation, flood control, ground water recharge, and*  
15 *augmented stream flows"*

16           “(b)” The Secretary of the Interior (hereafter referred to as “the Secretary”) is  
17 authorized to plan and construct *jointly with the State of North Dakota, a multi-purpose water*  
18 *resource development project within the State of North Dakota providing for* ~~the irrigation~~  
19 ~~of 130,940 acres~~ *irrigation, municipal, rural, and industrial water, fish and wildlife*  
20 *conservation* ~~fish, wildlife, and other natural resource conservation,~~ and development,  
21 recreation, flood control, *augmented streamflows, ground water recharge,* and other project  
22 purposes in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat.  
23 388, and Acts amendatory thereof and supplementary thereto) and substantially in  
24 accordance with the plans set out in the Garrison Diversion Unit Commission Final Report  
25 dated December 20, 1984 *(as modified by the Dakota Water Resources Act of 2000).*

26           “(c) Nothing in this Act is intended, nor shall be construed, to preclude the State of  
27 North Dakota from seeking Congressional authorization to plan, design, and construct  
28 additional Federally-assisted water resource development projects in the future.

29           “(d) Nothing in this Act shall be deemed to diminish the quantity of water from the  
30 Missouri River which the State of North Dakota may beneficially use, pursuant to any right or  
31 rights it may have under federal law existing immediately before the date of enactment of this  
32 Act and consistent with the treaty obligations of the United States.

33           “(e) The authorization for all features of. the Missouri Souris Unit of the Pick-Sloan  
34 Missouri Basin Program located in the State of North Dakota, heretofore authorized in section 9  
35 of the Flood Control Act of December 22, 1944 (58 Stat. 891), for which no funds have been  
36 appropriated for construction, and which are not authorized for construction by this Act, is  
37 ~~hereby terminated, and sections 1 and 6 of the Act of August 5, 1965 (Public Law 89-108, 79~~  
38 ~~Stat. 433) are hereby repealed.~~ *Terminated.*

39           “(f) ~~In implementing the provisions of this Act, the Secretary is directed to construct all~~  
40 ~~supply works to the capacity identified in the Garrison Diversion Unit Commission Final~~  
41 ~~Report, except that the Secretary is directed to construct the James River Feeder Canal to a~~  
42 ~~capacity of no more than 450 cubic feet per second, and the Sykeston Canal to the capacity~~  
43 ~~specified in Section 8(a)(1) of this Act.~~

1 ~~“(g) Where features constructed by the Secretary are no longer used to full capacity~~  
2 ~~pursuant to the recommendations of the Garrison Diversion Unit Commission Final Report, that~~  
3 ~~portion of the Secretary's investment attributable to the construction of such unused capacity~~  
4 ~~shall be nonreimbursable.~~

5 (f) COSTS-

6  
7 *“(1) ESTIMATE- The Secretary shall estimate--*

8  
9 *“(A) the actual construction costs of the facilities*  
10 *(including mitigation facilities) in existence as of the*  
11 *date of enactment of the Dakota Water Resources Act of 2000;*  
12 *and*

13  
14 *“(B) the annual operation, maintenance, and replacement*  
15 *costs associated with the used and unused capacity of the*  
16 *features in existence as of that date.*

17  
18 *“(2) REPAYMENT CONTRACT- An appropriate repayment contract shall*  
19 *be negotiated that provides for the making of a payment for each*  
20 *payment period in an amount that is commensurate with the*  
21 *percentage of the total capacity of the project that is in actual*  
22 *use during the payment period.*

23  
24 *“(3) OPERATION AND MAINTENANCE COSTS- Except as otherwise*  
25 *provided in this Act or Reclamation Law--*

26  
27 *“(A) The Secretary shall be responsible for the costs of*  
28 *operation and maintenance of the proportionate share of unit*  
29 *facilities in existence on the date of enactment of the*  
30 *Dakota Water Resources Act of 2000 attributable to the*  
31 *capacity of the facilities (including mitigation facilities)*  
32 *that remain unused;*

33  
34 *“(B) The State of North Dakota shall be responsible for*  
35 *costs of operation and maintenance of the proportionate*  
36 *share of existing unit facilities that are used and shall be*  
37 *responsible for the full costs of operation and maintenance*  
38 *of any facility constructed after the date of enactment of*  
39 *the Dakota Water Resources Act of 2000; and*

40  
41 *“(C) The State of North Dakota shall be responsible for the*  
42 *costs of providing energy to authorized unit facilities.*

43  
44 *“(g) AGREEMENT BETWEEN THE SECRETARY AND THE STATE- The Secretary*

1 shall enter into 1 or more agreements with the State of North Dakota  
2 to carry out this Act, including operation and maintenance of the  
3 completed unit facilities and the design and construction of  
4 authorized new unit facilities by the State.

5  
6 *`(h) BOUNDARY WATERS TREATY OF 1909-*

7  
8 *`(1) DELIVERY OF WATER INTO THE HUDSON BAY BASIN- Prior to*  
9 *construction of any water systems authorized under this Act to*  
10 *deliver Missouri River water into the Hudson Bay basin, the*  
11 *Secretary, in consultation with the Secretary of State and the*  
12 *Administrator of the Environmental Protection Agency, must*  
13 *determine that adequate treatment can be provided to meet the*  
14 *requirements of the Treaty between the United States and Great*  
15 *Britain relating to Boundary Waters Between the United States and*  
16 *Canada, signed at Washington, January 11, 1909 (26 Stat. 2448; TS*  
17 *548) (commonly known as the Boundary Waters Treaty of 1909).*

18  
19 *`(2) COSTS- All costs of construction, operation, maintenance,*  
20 *and replacement of water treatment and related facilities*  
21 *authorized by this Act and attributable to meeting the*  
22 *requirements of the treaty referred to in paragraph (1) shall be*  
23 *nonreimbursable.'*

24  
25  
26 **EXPLANATORY NOTE**

27 **Reference in the Text.** Section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887), referred to in the text, appears in  
28 Volume II of *Reclamation Laws Annotated* in chronological order. (1986 Garrison Reformulation Act substituted redline text for  
29 section 1 of original act. The added green italic text is from DWRA of 2000. The blue line strike out is that portion of the '86  
30 Act amended by DWRA of 2000)

31  
32 **Sec. 2. [Recreation and fish and wildlife enhancement.]**—(a) Subject to the  
33 provisions of subsections (b), (c), (d), and (e) of this section, the Secretary  
34 is authorized in connection with the Garrison diversion unit (i) to construct,  
35 operate, and maintain or provide for the construction, operation, and maintenance  
36 of public outdoor recreation and fish and wildlife enhancement facilities,  
37 (ii) to acquire or otherwise to include within the unit area such adjacent lands  
38 or interests in land as are necessary for present or future public recreation or  
39 fish and wildlife use, (iii) to allocate water and reservoir capacity to recreation  
40 and fish and wildlife enhancement, and (iv) to provide for the public use  
41 and enjoyment of unit lands, facilities, and water areas in a manner coordinated  
42 with other unit purposes. The Secretary is further authorized to enter into  
43 agreements with Federal agencies or State or local public bodies for the operation,  
44 maintenance, and replacement of unit facilities, and to transfer unit lands  
45 or facilities to Federal agencies or State or local public bodies by lease or ex-change,  
46 upon such terms and conditions as will best promote the development

1 and operation of such lands w facilities in the public interest for recreation  
2 and fish and wildlife enhancement purposes.

3 (b) All costs allocated to fish and wildlife enhancement and incurred in  
4 connection with waterfowl refuges and waterfowl production areas proposed  
5 for Federal administration shall be nonreimbursable.

6 (c) (1) If, before commencement of construction of the unit, non-Federal  
7 public bodies agree to administer for recreation or fish and wildlife enhancement or for both of  
8 these purposes pursuant to the plan for the development of  
9 the unit approved by the Secretary land and water areas which are not included  
10 within Federal waterfowl refuges and waterfowl production areas and to bear  
11 not less than one-half the separable costs of the unit allocated to either or both  
12 of said purposes, as the case may be, and attributable to such areas and all the  
13 costs of operation, maintenance, and replacement incurred in connection there-with;  
14 the remainder of the separable capital costs so allocated and attributed  
15 shall be nonreimbursable.

16 (2) In the absence of such a preconstruction agreement recreation and fish  
17 and wildlife enhancement facilities (other than minimum facilities for the public  
18 health and safety at reservoir access points and facilities related to Federal  
19 waterfowl refuges and waterfowl production areas ) shall not be provided, and  
20 the allocation of unit costs shall reflect only the number of visitor days and  
21 the value per visitor day estimated to result from such diminished recreation  
22 development without reference to lands which may be provided pursuant to  
23 subsection (e) of this section.

24 (d) The non-Federal share of the separable capital costs of the unit allocated  
25 to recreation and fish and wildlife enhancement shall be borne by non-Federal  
26 interests, under either or both of the following methods as may be determined  
27 appropriate by the Secretary: (i) payment, or provision of lands, interests  
28 therein, or facilities for the unit; or (ii) repayment, with interest, within fifty  
29 years d first use of unit recreation or fish and wildlife enhancement facilities:  
30 Provided, That the source of repayment may be limited to entrance and user  
31 fees or charges collected at the unit by non-Federal interests if the fee schedule  
32 and the portion of fees dedicated to repayment are established on a basis calculated  
33 to achieve repayment as aforesaid and are made subject to review and  
34 renegotiation at intervals of not more than five years.

35 (b) *FISH AND WILDLIFE COSTS- All fish and wildlife enhancement costs*  
36 *incurred in connection with waterfowl refuges, waterfowl production*  
37 *areas, and wildlife conservation areas proposed for Federal or State*  
38 *administration shall be nonreimbursable.*

39  
40 (c) *RECREATION AREAS-*

41  
42 (1) *COSTS- If non-Federal public bodies continue to agree to*  
43 *administer land and water areas approved for recreation and agree*  
44 *to bear not less than 50 percent of the separable costs of the*  
45 *unit allocated to recreation and attributable to those areas and*

1 *all the costs of operation, maintenance, and replacement incurred*  
2 *in connection therewith, the remainder of the separable capital*  
3 *costs so allocated and attributed shall be nonreimbursable.*

4  
5 *“(2) APPROVAL- The recreation areas shall be approved by the*  
6 *Secretary in consultation and coordination with the State of*  
7 *North Dakota.*

8  
9 *“(d) NON-FEDERAL SHARE- The non-Federal share of the separable capital*  
10 *costs of the unit allocated to recreation shall be borne by*  
11 *non-Federal interests, using the following methods, as the Secretary*  
12 *may determine to be appropriate:*

13  
14 *“(1) Services in kind.*

15  
16 *“(2) Payment, or provision of lands, interests therein, or*  
17 *facilities for the unit.*

18  
19 *“(3) Repayment, with interest, within 50 years of first use of*  
20 *unit recreation facilities.’;*

21 (e)(1) Notwithstanding the absence of preconstruction agreements as specified  
22 in subsection (c) of this section lands may be acquired in connection with  
23 construction of the unit to preserve the recreation and fish and wildlife  
24 enhancement potential of the unit.

25 ~~(1) (2) If non-Federal public bodies agree within ten years after initial unit~~  
26 ~~operation to administer for recreation and fish and wildlife enhancement~~ *to administer for*  
27 *recreation* pursuant to the plan for development of the unit approved by the Secretary land and  
28 water areas which are not included within Federal waterfowl refuges and  
29 waterfowl production areas and to bear not less than one-half the costs of lands  
30 acquired therefor pursuant to this subsection and facilities and project modifications  
31 provided for those purposes and all costs of operation, maintenance,  
32 and replacement incurred therefor, the remainder of the costs of such lands,  
33 facilities, and project modifications shall be nonreimbursable. Such agreement  
34 and subsequent development shall not be the basis for any allocation of joint  
35 costs of the unit to recreation or fish and wildlife enhancement.

36 ~~(2) (3) If, within ten years after initial operation of the unit, there is not an~~  
37 ~~executed agreement as specified in paragraph (1) Of this subsection,~~ *paragraph (2)* the Secretary  
38 may utilize the lands for any lawful purpose within the jurisdiction of the  
39 Department of the Interior, or may transfer custody of the land to another  
40 Federal agency for use for any lawful purpose within the jurisdiction of that  
41 agency, or may lease the lands to a non-Federal public body, or may transfer  
42 the lands to the Administrator of General Services for disposition in accordance  
43 with the surplus property laws of the United States. In no case shall the lands  
44 be used or made available for use for any purpose in conflict with the purposes

1 for which the project was constructed, and in every case preference shall be  
2 given to uses which will preserve and promote the recreation and fish and  
3 wildlife enhancement potential of the project or, in the absence thereof, will  
4 not detract from that potential.

5 (f) Subject to the limitations hereinbefore stated, joint capital costs allocated  
6 to recreation ~~and fish and wildlife enhancement~~ shall be nonreimbursable.

7 (g) Costs of means and measures to prevent loss of and damage to fish and  
8 wildlife shall be treated as unit costs and allocated among all unit purposes.

9 (h) As used in this Act, the term "nonreimbursable" shall not be construed  
10 to prohibit the imposition of entrance, admission, and other recreation user  
11 fees or charges. (79 Stat. 433)

12 "(i) Notwithstanding any other provisions of this section, the mitigation for fish and  
13 wildlife losses incurred as a result of construction of the project shall be on an acre-for-acre  
14 basis, based on ecological equivalency, concurrent with project construction.

15 The Secretary is directed to implement the provisions of the Garrison Diversion Unit  
16 Commission Final Report with respect to fish and wildlife conservation, including habitat  
17 impacts, mitigation procedures, and enhancement, except for the following:

18 "(1) The Secretary shall take no action to alter the status of Sheyenne Lake National  
19 Wildlife Refuge ~~prior to the completion of construction of Lonetree Dam and Reservoir.~~

20 "(2) Development and implementation of the mitigation and enhancement plan for fish  
21 and wildlife resources impacted by construction and operation of the Garrison Diversion Unit  
22 shall not be limited by the cost constraints based on estimates contained in the Garrison  
23 Diversion Unit Commission Final Report.

24 "(3) Credit toward mitigation recommended by the Garrison Diversion Unit  
25 Commission Final Report for reservoir sites is not authorized."

26 *(4) TAAYER RESERVOIR- Taayer Reservoir is deauthorized as a  
27 project feature. The Secretary, acting through the Commissioner  
28 of Reclamation, shall acquire (including acquisition through  
29 donation or exchange) up to 5,000 acres in the Kraft and Pickell  
30 Slough areas and to manage the area as a component of the  
31 National Wildlife Refuge System giving consideration to the  
32 unique wildlife values of the area. In acquiring the lands which  
33 comprise the Kraft and Pickell Slough complex, the Secretary  
34 shall acquire wetlands in the immediate vicinity which may be  
35 hydrologically related and nearby uplands as may be necessary to  
36 provide for proper management of the complex. The Secretary shall  
37 provide for appropriate visitor access and control at the refuge.*

38  
39 *(5) DEAUTHORIZATION OF LONETREE DAM AND RESERVOIR- The Lonetree  
40 Dam and Reservoir is deauthorized, and the Secretary shall  
41 designate the lands acquired for the former reservoir site as a  
42 wildlife conservation area. The Secretary shall enter into an  
43 agreement with the State of North Dakota providing for the  
44 operation and maintenance of the wildlife conservation area as an*

1 *enhancement feature, the costs of which shall be paid by the*  
2 *Secretary.*

3  
4 **EXPLANATORY NOTE**

5 *The Garrison Diversion Reformulation Act of 1986 added subparagraph (i) to section 2. This addition is shown in redline. This*  
6 *section was then modified by the Dakota Water Resources Act of 2000, the provisions of which are shown in green italic.*

7  
8 **Sec. 3. [Physical and financial integration with comprehensive Missouri**  
9 **River plan.]**—The Garrison diversion unit shall be integrated physically and  
10 financially with the other Federal works constructed or authorized to be constructed  
11 under the comprehensive plan approved by section 9 of the Act of  
12 December 22, 1944, as amended and supplemented. The Secretary shall give  
13 consideration to returning to the Missouri River to the fullest extent practicable  
14 such of the return flows as are not required for beneficial purposes. (79 Stat. 434)

15  
16 **EXPLANATORY NOTE**

17 *Reference in the Text.* Section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887), referred to in the text, appears  
18 *in Volume II of Reclamation Laws Annotated in chronological order.*

19  
20 **Sec. 4. (a) [Interest rates for Garrison diversion unit.]**—The interest rate  
21 used for computing interest during construction and interest on the unpaid balance  
22 of the capital costs allocated to interest-bearing features of the Garrison  
23 diversion unit as authorized in this Act shall be determined by the Secretary of the  
24 Treasury as of the beginning of the fiscal year in which construction is initiated,  
25 on the basis of the computed average interest rate payable by the Treasury  
26 upon its outstanding marketable public obligations, which are neither due nor  
27 callable for redemption for fifteen years from date of issue.

28 **(b) [Interest rates for Army power facilities in Missouri River Basin**  
29 **project.]**—From and after July 1, 1965, the interest rate on the unamortized  
30 balance of the investment allocated to commercial power in facilities constructed  
31 or under construction on June 30, 1965, by the Department of the Army in  
32 the Missouri River Basin, the commercial power from which is marketed by  
33 the Department of the Interior, and in the transmission and marketing facilities  
34 associated therewith, shall be 2 ½ per centum per annum. ( 79 Stat. 435) *Interest during*  
35 *construction shall be calculated only until such date as the Secretary declares any particular*  
36 *feature to be substantially complete, regardless of whether the feature is placed into service.'*

37  
38 **Sec. 5. [Basic agricultural commodity -Water delivery restriction.]**—For  
39 a period of ten years from the date of enactment of this Act, no water from  
40 the project authorized by this Act shall be delivered to any water user for the  
41 production on newly irrigated lands of any basic agricultural commodity, as  
42 defined in the Agricultural Act of 1949, or any amendment thereof, if the total  
43 supply of such commodity for the marketing year in which the bulk of the crop  
44 would normally be marketed is in excess of the normal supply as defined in  
45 section 301 (b) ( 10) of the Agricultural Adjustment Act of 1938, as amended,  
46 unless the Secretary of Agriculture calls for an increase in production of such

1 commodity in the interest of national security. (79 Stat. 435)

2 ~~"Sec. 5. (a)(1) Subject to the provisions of subsection (a)(2) of this section, the Secretary is~~  
3 ~~authorized to develop irrigation in the following project service areas: Turtle Lake (13,700~~  
4 ~~acres), McClusky Canal (4,000 acres), Lincoln Valley (6,515 acres), Harvey Pumping (2,000~~  
5 ~~acres), New Rockford (20,935 acres), New Rockford Canal (1,200 acres), LaMoure (13,350~~  
6 ~~acres), West Oakes Extension (4,000 acres), and West Oakes (19,660 acres). The Secretary is~~  
7 ~~prohibited from developing irrigation in these areas in excess of the acreage specified herein;~~  
8 ~~except that the Secretary is authorized and directed to develop up to 28,000 acres of irrigation~~  
9 ~~in other areas in North Dakota, not located in the Hudson Bay, Devils Lake, or James River~~  
10 ~~drainage basins.~~

11 ~~————"(2) The Secretary is prohibited from obligating any funds for construction of irrigation~~  
12 ~~service facilities in the areas listed in subsection (a)(1) of this section prior to September 30,~~  
13 ~~1990. After that date, the Secretary may obligate funds only after completing and submitting to~~  
14 ~~the Congress, the report required by section 5(c) of this Act.~~

15 ~~————"(b)(1) The Secretary may not commence construction of the Sykeston Canal, the James~~  
16 ~~River Feeder Canal, and James River channel improvements until 60 days after the report~~  
17 ~~required by section 5(c) of this Act has been completed and submitted to the Congress.~~

18 ~~————"(2) The Secretary is directed to proceed immediately with the construction of-~~

19 ~~————"(A) the New Rockford Canal;~~

20 ~~————"(B) the Oakes Test Area; and~~

21 ~~————"(C) project features authorized in section 7 of~~

22 ~~this Act.~~

23 ~~————"(c)(1) The Secretary is directed to submit a comprehensive report to the Congress as~~  
24 ~~soon as practicable, but not later than the end of fiscal year 1988 on the effects on the James~~  
25 ~~River in North Dakota and South Dakota of water resource development proposals~~  
26 ~~recommended by the Garrison Diversion Unit Commission and authorized in this Act. The~~  
27 ~~report shall include the findings of the Secretary with regard to:~~

28 ~~————"(A) the feasibility of using the Oakes Aquifer as a water storage and recharge~~  
29 ~~facility, and an evaluation of the need for off stream regulatory storage in the lower James River~~  
30 ~~basin;~~

31 ~~————"(B) the capability of the river to handle irrigation return flows, project water~~  
32 ~~supplies, and natural runoff without causing flooding, property damage, or damage~~  
33 ~~to wildlife areas, and mechanisms or procedures for compensation or reimbursement of affected~~  
34 ~~landowners for damages from project operation;~~

35 ~~————"(C) the impacts of Garrison Diversion Unit irrigation return flows on the river and on~~  
36 ~~adjacent riverine wetland areas and components of the National Wildlife Refuge System, with~~  
37 ~~regard to water quantity, water quality, and fish and wildlife values;~~

38 ~~————"(D) the need for channelization of the James River under the irrigation and municipal,~~  
39 ~~rural, and industrial water development programs authorized by this Act;~~

40 ~~————"(E) the cost and efficiency of measures required to guarantee that irrigation return~~  
41 ~~flows from the New Rockford (Robinson Coulee) irrigation service areas will not enter the~~  
42 ~~Hudson Bay drainage and the impact these return flows will have on the James River;~~

43 ~~————"(F) the feasibility of conveying project flows into the lower James River via Pipestem~~

1 Creek; and

2 ~~“(G) alternative management plans for operation of Jamestown and Pipestem Reservoirs~~  
3 ~~to minimize impacts on the lower James River.~~

4 ~~“(2) The costs of the study authorized by this subsection shall be nonreimbursable.~~

5 ~~“(3) The study authorized by this subsection shall be carried out in accordance with the~~  
6 ~~requirements of the National Environmental Policy Act.~~

7 **SEC. 5. IRRIGATION FACILITIES.**

8  
9 *“(a) IN GENERAL-*

10  
11 *“(1) AUTHORIZED DEVELOPMENT- In addition to the 5,000-acre Oakes*  
12 *Test Area in existence on the date of enactment of the Dakota*  
13 *Water Resources Act of 2000, the Secretary may develop irrigation*  
14 *in--*

15  
16 *“(A) the Turtle Lake service area (13,700 acres);*

17  
18 *“(B) the McClusky Canal service area (10,000 acres); and*

19  
20 *“(C) if the investment costs are fully reimbursed without*  
21 *aid to irrigation from the Pick-Sloan Missouri Basin*  
22 *Program, the New Rockford Canal service area (1,200 acres).*

23  
24 *“(2) DEVELOPMENT NOT AUTHORIZED- None of the irrigation*  
25 *authorized by this section may be developed in the Hudson*  
26 *Bay/Devils Lake Basin.*

27  
28 *“(3) NO EXCESS DEVELOPMENT- The Secretary shall not develop*  
29 *irrigation in the service areas described in paragraph (1) in*  
30 *excess of the acreage specified in that paragraph, except that*  
31 *the Secretary shall develop up to 28,000 acres of irrigation in*  
32 *other areas of North Dakota (such as the Elk/Charbonneau,*  
33 *Mon-Dak, Nesson Valley, Horsehead Flats, and Oliver-Mercer areas)*  
34 *that are not located in the Hudson Bay/Devils Lake drainage basin*  
35 *or James River drainage basin.*

36  
37 *“(4) PUMPING POWER- Irrigation development authorized by this*  
38 *section shall be considered authorized units of the Pick-Sloan*  
39 *Missouri Basin Program and eligible to receive project pumping*  
40 *power.*

41  
42 *“(5) PRINCIPAL SUPPLY WORKS- The Secretary shall maintain the*  
43 *Snake Creek Pumping Plant, New Rockford Canal, and McClusky Canal*  
44 *features of the principal supply works. Subject to the provisions*  
45 *of section (8) of this Act, the Secretary shall select a*

1 *preferred alternative to implement the Dakota Water Resources Act*  
2 *of 2000. In making this section, one of the alternatives the*  
3 *Secretary shall consider is whether to connect the principal*  
4 *supply works in existence on the date of enactment.';*  
5

6 *"(b) The Secretary is prohibited from obligating funds to construct irrigation*  
7 *facilities in the service areas listed in subsection (a) until a contract or contracts, in a*  
8 *form approved by the Secretary, providing for the appropriate payment of the costs allocated to*  
9 *irrigation have been properly executed by a district or districts organized under State law. Such*  
10 *contract or contracts shall be consistent with the requirements of the Reclamation Reform Act*  
11 *of 1982 (title II, Public Law 97-293, 96 Stat. 1263).*

12 *"(c) The Secretary is authorized to develop irrigation in the following project service*  
13 *areas within the boundaries of the Fort Berthold and Standing Rock Indian Reservations: Lucky*  
14 *Mound (7,700 acres) and Upper Six Mile Creek (7,500 acres), or such other lands at Fort*  
15 *Berthold of equal acreage as may be selected by the tribe and approved by the Secretary, and*  
16 *Fort Yates`one or more locations within the Standing Rock Indian Reservation (language "Fort*  
17 *Yates" amended from PL 102-575 (1992)) (2,380 acres), except that, no funds are authorized to*  
18 *be appropriated for construction of these projects until the Secretary has made a finding of*  
19 *irrigability of the lands to receive water as required by the Act of July 31, 1953 (67 Stat. 266;*  
20 *43 U.S.C. 390a). Repayment for the units authorized under this subsection shall be made*  
21 *pursuant to the Leavitt Act (25 U.S.C. 386a). (d) The Secretary shall not permit the*  
22 *use of project facilities for non-project drainage not included in project design or required for*  
23 *project operations."*

24 *(e) IRRIGATION REPORT TO CONGRESS-*

25  
26 *(1) IN GENERAL- The Secretary shall investigate and prepare a*  
27 *detailed report on the undesignated 28,000 acres in subsection*  
28 *(a)(3) as to costs and benefits for any irrigation units to be*  
29 *developed under Reclamation law.*

30  
31 *(2) FINDING- The report shall include a finding on the economic,*  
32 *financial and engineering feasibility of the proposed irrigation*  
33 *unit, but shall be limited to the undesignated 28,000 acres.*

34  
35 *(3) AUTHORIZATION- If the Secretary finds that the proposed*  
36 *construction is feasible, such irrigation units are authorized*  
37 *without further Act of Congress.*

38  
39 *(4) DOCUMENTATION- No expenditure for the construction of*  
40 *facilities authorized under this section shall be made until*  
41 *after the Secretary, in cooperation with the State of North*  
42 *Dakota, has prepared the appropriate documentation in accordance*  
43 *with section 1 and pursuant to the National Environmental Policy*  
44 *Act of 1969 (42 U.S.C. 4321 et seq.) analyzing the direct and*  
45 *indirect impacts of implementing the report.'*

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**EXPLANATORY NOTE**

*References in the Text.* The definition of “agricultural commodity” in the Agricultural Act of 1949, as amended, referred to in the text, is found at 63 Stat. 1056, 7 U.S.C. §1428(c). The definition of “normal supply” in section 301 (b) ( 10) of the Agricultural Adjustment Act of 1938, as amended, also referred to in the text, is found at 62 Stat. 1251, 7 U.S.C. §1301 (b) (10). Neither act appears in Reclamation Laws Annotated. (The Garrison Diversion Reformaulation Act of 1986 struck out the original section 5 and replaced it with the text shown in redline above. The ‘86 version of section 5 was amended by the DWRA of 2000. The original ‘86 Act text is shown as blue strike-out. The original text (‘65 Act) is shown as black strike-out. The act has been further modified by the Dakota Water Resources Act of 2000. These modifications are shown in green italic)

**Sec. 6. [Appropriation authorization.]**—There is hereby authorized to be appropriated for construction of the Garrison diversion unit as authorized in this Act, the sum of \$207,000,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein. There are also authorized to be appropriated such additional sums as may be required for operation and maintenance of the unit. (79 Stat. 435)

**"Sec. 6. (a) Municipal, rural, and industrial water systems constructed with funds authorized by section 7 of this Act shall utilize power from the Pick-Sloan Missouri Basin Program, as established by section 9 of the Flood Control Act of 1944 (Act of December 22, 1944), for the operation of such systems.**

**"(b) Notwithstanding the provisions of Pursuant to the provisions of section 302(a)(3) of the Department of Energy Organization Act (42 U.S.C 7152(a)(3)), any portion of the costs properly chargeable to irrigation for the Garrison Diversion Unit which are beyond the ability of water users to repay as authorized by Reclamation law may be repaid from power revenues, except repayment of investment in irrigation for the Garrison Diversion Unit made after the date of enactment of this Act may not exceed forty years from the year in which irrigation water is first delivered for use by the contracting party and shall be made in equal annual installments.**

**(c) Pursuant to the provisions of the last sentence of section 302(a)(3) of the Department of Energy Organization Act of 1978 (42 U.S.C. 7152(a)(3)), any reallocation of costs to project purposes other than irrigation as a result of section 1(e) of this Act shall not result in increased rates to Pick-Sloan Missouri Basin Program customers unless: (1) full use has been made of the current development method of rate setting in analyzing the repayment status and cost allocations for the Garrison Diversion Unit and (2) the resulting rate increase, if any, is made in equal amounts over the ten year period beginning on the date of any such reallocation pursuant to this Act. Costs reallocated to project purposes other than irrigation as a result of section 1(e) of this Act shall be repaid, if reimbursable, with interest at the rate specified in section 4(b) of this Act beginning on the date of any such reallocation without retroactive interest. Nothing in this Act shall alter or affect in any way the current repayment methodology for other features of the Pick-Sloan Missouri Basin Program."**

**(c) NO INCREASE IN RATES OR AFFECT ON REPAYMENT METHODOLOGY- In accordance with the last sentence of section 302(a)(3) of the Department of Energy Organization Act (42 U.S.C. 7152(a)(3)), section**

1 *I(e) shall not result in any reallocation of project costs and shall*  
2 *not result in increased rates to Pick-Sloan Missouri Basin Program*  
3 *customers. Nothing in the Dakota Water Resources Act of 2000 alters or*  
4 *affects in any way the repayment methodology in effect as of the date*  
5 *of enactment of that Act for other features of the Pick-Sloan Missouri*  
6 *Basin Program.'*

7  
8 **EXPLANATORY NOTES**

9 *Not Codified.* This Act (the original 1965 Act) is not codified in the U.S. Code.

10 *Legislative History of the 1965 Act. H.R. 237, Public Law 89-108 in the 89th Congress. Reported in House from Interior and Insular*  
11 *Affairs May 4, 1965; H.R. Rept. No. 282. Passed House June 16, 1965. Passed Senate July 22, 1965. Companion bill S. 34. Reported*  
12 *in Senate from Interior and Insular Affairs, July 20, 1965; S. Rept. No. 470. (The Garrison Diversion Reformulation Act of 1986 struck*  
13 *out the original text of Sec 6 and replaced it with the redline text shown above. The original text is shown in strikeout. Subsection c*  
14 *which was added by the '86 act, was revised as shown by the DWRA of 2000 in green italic. Other additions by the DWRA of 2000 are*  
15 *shown in green italic. Portions of the '86 Act which were struck by the DWRA of 2000 are shown in blue strikeout)*

16  
17 **"SEC. 7. (a)(1) The Secretary of the Interior is authorized to construct municipal, rural, and**  
18 **industrial water systems to serve areas throughout the State of North Dakota.**

19 **"(2) All planning, design, construction and operation of the municipal, rural, and**  
20 **industrial water systems authorized by this section shall be undertaken in accordance with a co-**  
21 **operative agreement between the Secretary and the State of North Dakota. Such cooperative**  
22 **agreement shall set forth in a manner acceptable to the Secretary the responsibilities of the State**  
23 **for:**

24 **"(A) needs assessments;**

25 **"(B) feasibility studies;**

26 **"(C) engineering and design;**

27 **"(D) construction;**

28 **"(E) operation and maintenance; and,**

29 **"(F) the administration of contracts pertaining to any of the foregoing.**

30 **"(3) Upon execution of the cooperative agreement required under this subsection, the**  
31 **Secretary is authorized to convey to the State of North Dakota, on a nonreimbursable basis, the**  
32 **funds authorized in section 10(b)(1) of this Act. ~~The non-Federal share~~ Unless otherwise**  
33 **provided in this Act, the non-Federal share' of the total cost of construction of each water system**  
34 **water systems for which the State of North Dakota receives funding pursuant to this section**  
35 **shall be 25 percent, committed prior to the initiation of construction. The State may use the**  
36 **Federal and non-Federal funds to provide grants or loans for municipal, rural, and industrial water**  
37 **systems. The State shall use the proceeds of repaid loans for municipal, rural, and industrial water**  
38 **systems. Proceeds from loan repayments and any interest thereon shall be treated as Federal funds.**  
39 **The non-Federal share of the cost of operation, maintenance, and replacement of each**  
40 **municipal, rural, and industrial water system funded by this section shall be 100 percent. ~~The~~**  
41 **~~Southwest Pipeline Project shall be deemed to be eligible for funding under the terms of this~~**  
42 **~~section.~~ The Southwest Pipeline Project, the Northwest Area Water Supply Project, the Red River**  
43 **Valley Water Supply Project, and other municipal, industrial, and rural water systems in the State**  
44 **of North Dakota shall be eligible for funding under the terms of this section. Funding provided**  
45 **under this section for the Red River Valley Water Supply Project shall be in addition to funding for**  
46 **that project under section 10(a)(1)(B). The amount of non-Federal contributions made after May**  
47 **12, 1986, that exceeds the 25 percent requirement shall be credited to the State for future use in**

1 *municipal, rural, and industrial projects under this section.*

2 ~~"(b) The Secretary is authorized and directed to construct, operate, and maintain a~~  
3 ~~Sheyenne River water supply and release feature (including a water treatment plant) capable~~  
4 ~~of delivering 100 cubic feet per second of water for the cities of Fargo and Grand Forks and~~  
5 ~~surrounding communities. The costs of the construction, operation, maintenance, and~~  
6 ~~replacement of this feature, exclusive of conveyance, shall be nonreimbursable and deemed~~  
7 ~~attributable to meeting requirements of the Boundary Waters Treaty of 1909.~~

8 ~~———"(c) The Secretary is authorized and directed to construct, operate, and maintain such~~  
9 ~~municipal, rural, and industrial water systems as he deems necessary to meet the economic,~~  
10 ~~public health and environmental needs of the Fort Berthold, Standing Rock, and Fort Totten~~  
11 ~~Indian Reservations:~~

12 ~~———"(d) Municipal, rural, and industrial water systems constructed with funds authorized~~  
13 ~~under this Act may deliver Missouri River water into the Hudson Bay drainage only after the~~  
14 ~~Secretary of the Interior, in consultation with the Secretary of State and the Administrator of~~  
15 ~~the Environmental Protection Agency, has determined that adequate treatment has been~~  
16 ~~provided to meet the requirements of the Boundary Waters Treaty of 1909."~~

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

26  
27 *^(c) NONREIMBURSABILITY OF COSTS- With respect to the Southwest*  
28 *Pipeline Project, the Northwest Area Water Supply Project, the Red*  
29 *River Valley Water Supply Project, and other municipal, industrial,*  
30 *and rural water systems in North Dakota, the costs of the features*  
31 *constructed on the Missouri River by the Secretary of the Army before*  
32 *the date of enactment of the Dakota Water Resources Act of 2000 shall*  
33 *be nonreimbursable.*

34  
35 *^(d) INDIAN MUNICIPAL RURAL AND INDUSTRIAL WATER SUPPLY- The Secretary*  
36 *shall construct, operate, and maintain such municipal, rural, and*  
37 *industrial water systems as the Secretary determines to be necessary*  
38 *to meet the economic, public health, and environmental needs of the*  
39 *Fort Berthold, Standing Rock, Turtle Mountain (including the Trenton*  
40 *Indian Service Area), and Fort Totten Indian Reservations and adjacent*  
41 *areas.'*

42  
43 ~~"SEC. 8. (a)(1) In accordance, with the recommendations of the Garrison Diversion Unit~~  
44 ~~Commission Final Report and section 1 of this Act, the Sykeston Canal shall be constructed as~~

1 a functional replacement for the Lonetree Dam and Reservoir. The Sykeston Canal shall be  
2 designed and constructed to meet only the water delivery requirements of the irrigation areas  
3 and municipal, rural, and industrial water supply needs authorized in this Act. The  
4 Sykeston Canal shall be located, constructed, and operated so that, in the opinion of the Sec-  
5 retaries of the Interior and State, no violation of the Boundary Waters Treaty of 1909 would  
6 result. The Secretary may not commence construction on the Sykeston Canal until a master  
7 repayment contract consistent with the provisions of this Act between the Secretary and the  
8 appropriate non-Federal entity has been executed.

9 ~~“(2) The Lonetree Dam and Reservoir shall remain an authorized feature of the Garrison~~  
10 ~~Diversion Unit; however, construction funds may be requested by the Secretary for Lonetree~~  
11 ~~Dam and Reservoir only after:~~

12 ~~“(A) The Secretary has determined that there is a need for the dam and reservoir~~  
13 ~~based on a contemporary appraisal using procedures such as those employed in the preparation~~  
14 ~~of feasibility studies for water resources development projects submitted to Congress;~~

15 ~~“(B) consultations with the Government of Canada have reached a conclusion~~  
16 ~~satisfactory to the Secretary of State, after consultation with the Administrator of the~~  
17 ~~Environmental Protection Agency, that no violation of the Boundary Waters Treaty of 1909~~  
18 ~~would result from the construction and operation of the dam and reservoir; and~~

19 ~~“(C) the Secretaries of the Interior and State have submitted the determinations~~  
20 ~~required by subparagraphs (A) and (B) above to the Congress and 90 calendar days have~~  
21 ~~elapsed.~~

22 ~~“(b) Taayer Reservoir is deauthorized as a project feature. The Secretary is directed to~~  
23 ~~acquire up to 5,000 acres in the Kraft and Pickell Slough areas and to manage the area as a~~  
24 ~~component of the National Wildlife Refuge System giving consideration to the unique wildlife~~  
25 ~~values of the area. In acquiring the lands which comprise the Kraft and Pickell Slough complex,~~  
26 ~~the Secretary is authorized to acquire wetlands in the immediate vicinity which may be~~  
27 ~~hydrologically related and nearby uplands as may be necessary to provide for proper~~  
28 ~~management of the complex. The Secretary is also authorized to provide for appropriate visitor~~  
29 ~~access and control at the refuge.”~~

30 ***SEC. 8. SPECIFIC FEATURES.***

31  
32 ***SYKESTON CANAL-*** Sykeston Canal is hereby deauthorized.

33 ***(a) Red River Valley Water Supply Project-***

34  
35 ***(1) IN GENERAL-*** Subject to the requirements of this section, the  
36 Secretary shall construct a feature or features to provide water  
37 to the Sheyenne River water supply and release facility or such  
38 other feature or features as are selected under subsection (d).

39  
40 ***(2) DESIGN AND CONSTRUCTION-*** The feature or features shall be  
41 designed and constructed to meet only the following water supply  
42 requirements as identified in the report prepared pursuant to  
43 subsection (b) of this section: Municipal, rural, and industrial  
44 water supply needs; ground water recharge; and streamflow

1 augmentation.

2  
3 *“(3) COMMENCEMENT OF CONSTRUCTION- (A) If the Secretary selects a*  
4 *project feature under this section that would provide water from*  
5 *the Missouri River or its tributaries to the Sheyenne River water*  
6 *supply and release facility or from the Missouri River or its*  
7 *tributaries to such other conveyance facility as the Secretary*  
8 *selects under this section, no later than 90 days after the*  
9 *completion of the final environmental impact statement, the*  
10 *Secretary shall transmit to Congress a comprehensive report which*  
11 *provides--*

12  
13 *“(i) a detailed description of the proposed project feature;*

14  
15 *“(ii) a summary of major issues addressed in the*  
16 *environmental impact statement;*

17  
18 *“(iii) likely effects, if any, on other States bordering the*  
19 *Missouri River and on the State of Minnesota; and*

20  
21 *“(iv) a description of how the project feature complies with*  
22 *the requirements of section 1(h)(1) of this Act (relating to*  
23 *the Boundary Waters Treaty of 1909).*

24  
25 *“(B) No project feature or features that would provide water from*  
26 *the Missouri River or its tributaries to the Sheyenne River water*  
27 *supply and release facility or from the Missouri River or its*  
28 *tributaries to such other conveyance facility as the Secretary*  
29 *selects under this section shall be constructed unless such*  
30 *feature is specifically authorized by an Act of Congress approved*  
31 *subsequent to the Secretary's transmittal of the report required*  
32 *in subparagraph (A). If, after complying with subsections (b)*  
33 *through (d) of this section, the Secretary selects a feature or*  
34 *features using only in-basin sources of water to meet the water*  
35 *needs of the Red River Valley identified in subsection (b), such*  
36 *features are authorized without further Act of Congress. The Act*  
37 *of Congress referred to in this subparagraph must be an*  
38 *authorization bill, and shall not be a bill making*  
39 *appropriations.*

40  
41 *“(C) The Secretary may not commence construction on the feature*  
42 *until a master repayment contract or water service agreement*  
43 *consistent with this Act between the Secretary and the*  
44 *appropriate non-Federal entity has been executed.*

1        `*(b) Report on Red River Valley Water Needs and Options-*

2  
3        `*(1) IN GENERAL- The Secretary of the Interior shall conduct a*  
4        `*comprehensive study of the water quality and quantity needs of*  
5        `*the Red River Valley in North Dakota and possible options for*  
6        `*meeting those needs.*

7  
8        `*(2) NEEDS- The needs addressed in the report shall include such*  
9        `*needs as--*

10        `*(A) municipal, rural, and industrial water supplies;*

11        `*(B) water quality;*

12        `*(C) aquatic environment;*

13        `*(D) recreation; and*

14        `*(E) water conservation measures.*

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21        `*(3) PROCESS- In conducting the study, the Secretary through an*  
22        `*open and public process shall solicit input from gubernatorial*  
23        `*designees from states that may be affected by possible options to*  
24        `*meet such needs as well as designees from other federal agencies*  
25        `*with relevant expertise. For any option that includes an*  
26        `*out-of-basin solution, the Secretary shall consider the effect of*  
27        `*the option on other states that may be affected by such option,*  
28        `*as well as other appropriate considerations. Upon completion, a*  
29        `*draft of the study shall be provided by the Secretary to such*  
30        `*states and federal agencies. Such states and agencies shall be*  
31        `*given not less than 120 days to review and comment on the study*  
32        `*method, findings and conclusions leading to any alternative that*  
33        `*may have an impact on such states or on resources subject to such*  
34        `*federal agencies' jurisdiction. The Secretary shall receive and*  
35        `*take into consideration any such comments and produce a final*  
36        `*report and transmit the final report to Congress.*

37  
38        `*(4) LIMITATION- No design or construction of any feature or*  
39        `*features that facilitate an out-of-basin transfer from the*  
40        `*Missouri River drainage basin shall be authorized under the*  
41        `*provisions of this subsection.*

42  
43        `*(c) Environmental Impact Statement-*

44        `*(1) IN GENERAL- Nothing in this section shall be construed to*  
45

1 *supersede any requirements under the National Environmental*  
2 *Policy Act or the Administrative Procedures Act.*

3  
4 *`(2) Draft-*

5  
6 *`(A) DEADLINE- Pursuant to an agreement between the*  
7 *Secretary and State of North Dakota as authorized under*  
8 *section 1(g), not later than 1 year after the date of*  
9 *enactment of the Dakota Water Resources Act of 2000, the*  
10 *Secretary and the State of North Dakota shall jointly*  
11 *prepare and complete a draft environmental impact statement*  
12 *concerning all feasible options to meet the comprehensive*  
13 *water quality and quantity needs of the Red River Valley and*  
14 *the options for meeting those needs, including the delivery*  
15 *of Missouri River water to the Red River Valley.*

16  
17 *`(B) REPORT ON STATUS- If the Secretary and State of North*  
18 *Dakota cannot prepare and complete the draft environmental*  
19 *impact statement within 1 year after the date of enactment*  
20 *of the Dakota Water Resources Act of 2000, the Secretary, in*  
21 *consultation and coordination with the State of North*  
22 *Dakota, shall report to Congress on the status of this*  
23 *activity, including an estimate of the date of completion.*

24  
25 *`(3) Final-*

26  
27 *`(A) DEADLINE- Not later than 1 year after filing the draft*  
28 *environmental impact statement, a final environmental impact*  
29 *statement shall be prepared and published.*

30  
31 *`(B) REPORT ON STATUS- If the Secretary and State of North*  
32 *Dakota cannot prepare and complete a final environmental*  
33 *impact statement within 1 year of the completion of the*  
34 *draft environmental impact statement, the Secretary, in*  
35 *consultation and coordination with the State of North*  
36 *Dakota, shall report to Congress on the status of this*  
37 *activity, including an estimate of the date of completion.*

38  
39 *`(d) Process for Selection-*

40  
41 *`(1) IN GENERAL- After reviewing the final report required by*  
42 *subsection (b)(1) and complying with subsection (c), the*  
43 *Secretary, in consultation and coordination with the State of*  
44 *North Dakota in coordination with affected local communities,*  
45 *shall select 1 or more project features described in subsection*

1 (a) that will meet the comprehensive water quality and quantity  
2 needs of the Red River Valley. The Secretary's selection of an  
3 alternative shall be subject to judicial review.  
4

5 (2) AGREEMENTS- If the Secretary selects an option under  
6 paragraph (1) that uses only in-basin sources of water, not later  
7 than 180 days after the record of decision has been executed, the  
8 Secretary shall enter into a cooperative agreement with the State  
9 of North Dakota to construct the feature or features selected. If  
10 the Secretary selects an option under paragraph (1) that would  
11 require a further act of Congress under the provisions of  
12 subsection (a), not later than 180 days after the date of  
13 enactment of legislation required under subsection (a) the  
14 Secretary shall enter into a cooperative agreement with the State  
15 of North Dakota to construct the feature or features authorized  
16 by that legislation.  
17

18 (e) SHEYENNE RIVER WATER SUPPLY AND RELEASE OR ALTERNATE FEATURES-  
19 The Secretary shall construct, operate, and maintain a Sheyenne River  
20 water supply and release feature (including a water treatment plant)  
21 capable of delivering 100 cubic feet per second of water or any other  
22 amount determined in the reports under this section, for the cities of  
23 Fargo and Grand Forks and surrounding communities, or such other  
24 feature or features as may be selected under subsection (d).  
25

26 (f) DEVILS LAKE- No funds authorized under this Act may be used to  
27 carry out the portion of the feasibility study of the Devils Lake  
28 basin, North Dakota, authorized under the Energy and Water Development  
29 Appropriations Act of 1993 (Public Law 102-377), that addresses the  
30 needs of the area for stabilized lake levels through inlet controls,  
31 or to otherwise study any facility or carry out any activity that  
32 would permit the transfer of water from the Missouri River drainage  
33 basin into Devils Lake, North Dakota.'  
34

35 ~~"SEC. 9. Until the construction costs of the facilities authorized in section 5 are repaid, the~~  
36 ~~Secretary is directed to charge a "surplus crop production charge" equal to 10 per cent of full~~  
37 ~~cost, as defined in Section 202(3) (A)-(C) of the Reclamation Reform Act of 1982 (Public Law~~  
38 ~~97-293, 96 Stat. 1263), for the delivery of project water used in the production of any basic~~  
39 ~~agricultural commodity if the total supply of such commodity for the marketing years in which~~  
40 ~~the bulk of the crop would normally be marketed is in excess of the normal supply as~~  
41 ~~determined by the Secretary of Agriculture. The Secretary of the Interior shall announce the~~  
42 ~~amount of the surplus crop production charge for the succeeding year on or before July 1 of~~  
43 ~~each year. The surplus crop production charge shall not apply to crops produced in the 5,000~~  
44 ~~acre Oakes Test Area for research purposes under the direction of the Secretaries of the Interior~~

1 ~~or Agriculture.~~

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

3  
4 *“(a) IN GENERAL- Not later than 2 years after execution of a record of*  
5 *decision under section 8(d) on whether to use the New Rockford Canal*  
6 *as a means of delivering water to the Red River Basin as described in*  
7 *section 8, the Secretary shall enter into an agreement with the State*  
8 *of North Dakota, or its designee, to convey title and all or any*  
9 *rights, interests, and obligations of the United States in and to the*  
10 *Oakes Test Area as constructed and operated under Public Law 99-294*  
11 *(100 Stat. 418) under such terms and conditions as the Secretary*  
12 *believes would fully protect the public interest.*

13  
14 *“(b) TERMS AND CONDITIONS- The agreement shall define the terms and*  
15 *conditions of the transfer of the facilities, lands, mineral estate,*  
16 *easements, rights-of-way and water rights including the avoidance of*  
17 *costs that the Federal Government would otherwise incur in the case of*  
18 *a failure to agree under subsection (d).*

19  
20 *“(c) COMPLIANCE- The action of the Secretary under this section shall*  
21 *comply with all applicable requirements of Federal, State, and local*  
22 *law.*

23  
24 *“(d) FAILURE TO AGREE- If an agreement is not reached within the time*  
25 *limit specified in subsection (a), the Secretary shall dispose of the*  
26 *Oakes Test Area facilities under the Federal Property and*  
27 *Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).’.*

28  
29 **"Sec. 10. ~~(a)(1) There are authorized~~ *(a) WATER DISTRIBUTION FEATURES-***

30  
31 ***(1) IN GENERAL-***

32  
33 ***(A) MAIN STEM SUPPLY WORKS- There is authorized to be appropriated***  
34 ***\$270,395,000 for carrying out the provisions of section 5(a) through section 5(c) and section***  
35 ***8(a)(1) of this Act. \$164,000,000 to carry out section 5(a).***

36 ***(B) RED RIVER VALLEY WATER SUPPLY PROJECT- There is***  
37 ***authorized to be appropriated to carry out section 8(a)(1)***  
38 ***\$200,000,000.***

39 ***(C) AVAILABILITY- Such sums ~~Such sums~~ shall remain available until expended***

40  
41 ***(2) There is (2) INDIAN IRRIGATION-***

42  
43 ***(A) IN GENERAL- There is authorized to be appropriated \$67,910,000 \$12,570,000***  
44 ***(change in authorization by PL 102-575 (1992) Sec. 3507 (b) added \$4,660,000 to the***  
45 ***\$7,910,000 authorized in Sec 3510) for carrying out the provisions of section 5(e) of this Act.***

1 to carry out section 5(c). ~~Such sums~~

2 (B) AVAILABILITY- *Such sums shall remain available until expended.*

3  
4 ~~"(b)(1) There is~~ (b) MUNICIPAL, RURAL, AND INDUSTRIAL WATER SUPPLY-

5  
6 `(1) STATEWIDE-

7  
8 `(A) INITIAL AMOUNT- *There is authorized to be appropriated \$200,000,000 to carry*  
9 *out the provisions of section 7(a) of this Act.*

10  
11 (B) ADDITIONAL AMOUNT- *In addition to the amount under*  
12 *subparagraph (A), there is authorized to be appropriated to*  
13 *carry out section 7(a) \$200,000,000 . Such sums`*

14 (C) AVAILABILITY- *Such sums shall remain available until expended.*

15 ~~"(2) There are authorized to be appropriated \$61,000,000 to carry out the provisions of~~  
16 ~~section 7(b) through section 7(d) of this Act.~~

17 (2) INDIAN MUNICIPAL, RURAL, AND INDUSTRIAL AND OTHER DELIVERY  
18 FEATURES-

19  
20 `(A) INITIAL AMOUNT- *There is authorized to be*  
21 *appropriated--*

22  
23 `(i) *to carry out section 8(a)(1), \$40,500,000; and*

24  
25 `(ii) *to carry out section 7(d), \$20,500,000.*

26 (B) ADDITIONAL AMOUNT-

27  
28 `(i) IN GENERAL- *In addition to the amount under*  
29 *subparagraph (A), there is authorized to be*  
30 *appropriated to carry out section 7(d) \$200,000,000.*

31  
32 `(ii) ALLOCATION- *The amount under clause (i) shall be*  
33 *allocated as follows:*

34  
35 `(I) *\$30,000,000 to the Fort Totten Indian*  
36 *Reservation.*

37  
38 `(II) *\$70,000,000 to the Fort Berthold Indian*  
39 *Reservation.*

40  
41 `(IV) *\$80,000,000 to the Standing Rock Indian*  
42 *Reservation.*

43  
44 `(V) *\$20,000,000 to the Turtle Mountain Indian*

1                    *Reservation. Such sums*

2                    (C) AVAILABILITY- *Such sums shall remain available until expended.*

3 ~~"(c) There is~~ (c) RESOURCES TRUST AND OTHER PROVISIONS-

4  
5                    ~~“(1) INITIAL AMOUNT- There is authorized to be appropriated for carrying out the~~  
6 ~~remaining provisions of this Act \$80,535,000. No funds are authorized for the construction of~~  
7 ~~the Lonetree Dam and Reservoir. There are also authorized to be appropriated such additional~~  
8 ~~funds as may be necessary for operation and maintenance of the unit.”~~

9                    (2) ADDITIONAL AMOUNT- *In addition to amount under paragraph (1), there are*  
10 *authorized to be appropriated--*

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

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

13  
14  
15  
16 *to remain available until expended.*

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

22  
23                    ~~“(4) OPERATION AND MAINTENANCE-~~

24  
25                    ~~“(A) IN GENERAL- There are authorized to be appropriated~~  
26 ~~such sums as are necessary for operation and maintenance of~~  
27 ~~the unit (including the mitigation and enhancement~~  
28 ~~features).~~

29  
30                    ~~“(B) AUTHORIZATION LIMITS- Expenditures for operation and~~  
31 ~~maintenance of features substantially completed and features~~  
32 ~~constructed before the date of enactment of the Dakota Water~~  
33 ~~Resources Act of 2000, including funds expended for such~~  
34 ~~purposes since the date of enactment of Public Law 99-294,~~  
35 ~~shall not be counted against the authorization limits in~~  
36 ~~this section.~~

37  
38                    ~~“(5) MITIGATION AND ENHANCEMENT LAND- On or about the date on~~  
39 ~~which the features authorized by section 8(a) are operational, a~~  
40 ~~separate account in the Natural Resources Trust authorized by~~  
41 ~~section 11 shall be established for operation and maintenance of~~  
42 ~~the mitigation and enhancement land associated with the unit~~

43                    *"(d) Any funds previously appropriated for the Garrison Diversion Unit may be*  
44 *expended to carry out any of the provisions of this Act."*

45 ~~(e) The portion of the \$61,000,000 authorized for Indian municipal, rural, and industrial water~~

1 features shall be indexed as necessary to allow for  
2 ~~ordinary fluctuations of construction costs incurred after October 1, 1986, as indicated by~~  
3 ~~engineering costs indices applicable for the type of~~  
4 ~~construction involved. All other authorized cost ceilings shall remain unchanged (language~~  
5 ~~added by PL102-575 and struck by DWRA of 2000)~~

6 *(e) INDEXING- The \$200,000,000 amount under subsection (b)(1)(B), the*  
7 *\$200,000,000 amount under subsection (a)(1)(B), and the funds*  
8 *authorized under subsection (b)(2) shall be indexed as necessary to*  
9 *allow for ordinary fluctuations of construction costs incurred after*  
10 *the date of enactment of the Dakota Water Resources Act of 2000 as*  
11 *indicated by engineering cost indices applicable for the type of*  
12 *construction involved. All other authorized cost ceilings shall remain*  
13 *unchanged.'*

14 ~~"SEC. 11. (a) FEDERAL CONTRIBUTIONS. From the sums appropriated under Section 10~~  
15 ~~of this Act for the Garrison Diversion Unit, the Secretary of the Interior shall make an annual~~  
16 ~~Federal contribution to a Wetlands Trust established by non-Federal interests in accordance~~  
17 ~~with subsection (b), and operated in accordance with subsection (c), of this section. The amount~~  
18 ~~of each such annual contribution shall be as follows:~~

19 ~~"(1) For fiscal year 1986: \$2,000,000.~~

20 ~~"(2) For each of the fiscal years 1987 through 1990: 3 percent of the total amount~~  
21 ~~appropriated under Section 10 of this Act, but not to exceed \$500,000 for each~~  
22 ~~such fiscal year.~~

23 ~~(3) For each fiscal year after 1990: 5 percent of the total amount appropriated~~  
24 ~~under Section 10 of this Act, but only if a contribution to the Trust equal to 10~~  
25 ~~percent of all Federal contributions is provided or contracted for by the State of~~  
26 ~~North Dakota from non-Federal funds. The contributions of the State of North~~  
27 ~~Dakota may be paid to the Trust in such amounts and in such manner as may be~~  
28 ~~agreed upon by the Governor and the Secretary.~~

29 ~~"(4) The total Federal contribution pursuant to this Act shall not exceed~~  
30 ~~\$12,000,000.(a) CONTRIBUTION-~~

31  
32 *`(1) INITIAL AUTHORIZATION-*

33  
34 *`(A) IN GENERAL- From the sums appropriated under section 10*  
35 *for the Garrison Diversion Unit, the Secretary shall make an*  
36 *annual Federal contribution to a Natural Resources Trust*  
37 *established by non-Federal interests in accordance with*  
38 *subsection (b) and operated in accordance with subsection (c).*

39  
40 *`(B) AMOUNT- The total amount of Federal contributions under*  
41 *subparagraph (A) shall not exceed \$12,000,000.*

42  
43 *`(2) ADDITIONAL AUTHORIZATION-*  
44

1           `*(A) IN GENERAL- In addition to the amount authorized in*  
2           *paragraph (1), the Secretary shall make annual Federal*  
3           *contributions to the Natural Resources Trust until the*  
4           *amount authorized by section 10(c)(2)(B) is reached, in the*  
5           *manner stated in subparagraph (B).*

6  
7           `*(B) ANNUAL AMOUNT- The amount of the contribution under*  
8           *subparagraph (A) for each fiscal year shall be the amount*  
9           *that is equal to 5 percent of the total amount that is*  
10           *appropriated for the fiscal year under subsections (a)(1)(B)*  
11           *and (b)(1)(B) of section 10*

12       **(b) STRUCTURE OF THE TRUST.-A ~~Wetlands Trust~~ *Natural Resources Trust* shall be**  
13       **eligible to receive Federal contributions pursuant to subsection (a) if it complies with**  
14       **each of the following requirements:**

15           “(1) The Trust is established by non-Federal interests as a non-profit corporation  
16           under the laws of North Dakota with its principal office in North Dakota.

17           “(2) The Trust is under the direction of a Board of Directors which has the power  
18           to manage all affairs of the corporation, including administration, data collection, and  
19           implementation of the purposes of the Trust.

20           “(3) The Board of Directors of the Trust is comprised of 6 persons appointed as  
21           follows, each for a term of 2 years:

22                   “(A) 3 persons appointed by the Governor of North Dakota.

23                   “(B) 1 person appointed by the National Audubon Society.

24                   “(C) 1 person appointed by the National Wildlife Federation. .

25                   “(D) 1 person appointed by the North Dakota Chapter of the Wildlife  
26           Society. Vacancies on the board are filled in the manner in which the original  
27           appointments were made. Any member of the Board of Directors is eligible for  
28           reappointment for successive terms. Any member appointed to fill a vacancy  
29           occurring before the expiration of the term for which his or her predecessor was  
30           appointed is appointed only for the remainder of such term. A member may  
31           serve after the expiration of his or her term until his or her successor has taken  
32           office.

33           “(4) Members of the Board of Directors serve without compensation.

34           “(5) The corporate purposes of the Trust are to preserve, enhance, restore, and  
35           manage wetland and associated wildlife habitat in the State of North Dakota.

36       “(C) OPERATIONS OF THE TRUST.-A ~~Wetland Trust~~ *Natural Resources Trust* established  
37       by non-Federal interests as provided in subsection (b) shall be deemed to be operating  
38       in accordance with this subsection if, in the opinion of the Secretary, each of the  
39       following requirements **are** is met:

40           “(1) The Trust is operated to preserve, enhance, restore, and manage wetlands  
41           and associated wildlife habitat, *grassland conservation and riparian areas* in the  
42           State of North Dakota in accordance with its corporate purpose as provided in  
43           subsection (b)(5).

44           “(2) Pursuant to its corporate charter, the Trust has the authority to

1 exercise each of the following powers:

2 "(A) The power to acquire lands and interests in land and power to  
3 acquire water rights. Lands or interests in lands may be acquired by the Trust  
4 only with the consent of the owner thereof and with the approval of the  
5 Governor of North Dakota.

6 "(B) The power to finance wetland preservation, enhancement,  
7 restoration, and management or wetland habitat programs.

8 *(C) The power to fund incentives for conservation practices by landowners.*

9 (3) All funds received by the Trust under subsection (a) are invested in  
10 accordance with the requirements of subsection (d). No part of the principal amount of  
11 such funds may be expended for any purpose. The income received by the Trust from  
12 the investment of such funds shall be used by the Trust exclusively for its purposes and  
13 operations in accordance with this subsection or, to the extent not required for current  
14 operations, reinvested in accordance with subsection (d).

15 (4) The Trust agrees to provide such reports as may be required by the Secretary  
16 or the Governor of North Dakota and makes its records available for audit by Federal  
17 and State agencies.

18 "(d) INVESTMENT OF TRUST FUNDS.-The Secretary of the Interior, in consultation  
19 with the Secretary of the Treasury and the Governor of North Dakota, shall establish  
20 requirements for the investment of all amounts received by the Trust under subsection (a) or  
21 reinvested under subsection (c)(3). Such requirements shall ensure that such amounts are  
22 invested in accordance with sound investment principles and shall ensure that persons  
23 managing such investments mill exercise their fiduciary responsibilities in an appropriate  
24 manner.

25  
26 ***Explanatory Note:***

27 *Sections 7 thru 11 were added to law by Garrison Diversion Reformulation Act of 1986. Changes made to these sections by the*  
28 *Dakota Water Resources Act of 2000 are shown in green italic (additions) and blue strike out (deletions). Gold text was added*  
29 *by the 1992 Reclamation Projects Authorization and Adustment Act.*