

115TH CONGRESS
1ST SESSION

H. R. 2939

To prohibit the conditioning of any permit, lease, or other use agreement on the transfer of any water right to the United States by the Secretaries of the Interior and Agriculture, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 20, 2017

Mr. TIPTON (for himself, Mr. LAMBORN, Mr. McCLINTOCK, Mr. GOSAR, Mr. AMODEI, Mrs. LOVE, Mr. SCHWEIKERT, Mr. LAMALFA, Mr. SIMPSON, and Mr. WESTERMAN) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit the conditioning of any permit, lease, or other use agreement on the transfer of any water right to the United States by the Secretaries of the Interior and Agriculture, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Water Rights Protec-
5 tion Act of 2017”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) SECRETARY.—The term “Secretary”
4 means, as applicable—

5 (A) the Secretary of Agriculture; or

6 (B) the Secretary of the Interior.

7 (2) WATER RIGHT.—The term “water right”
8 means any surface, groundwater, or storage use
9 filed, permitted, certificated, confirmed, decreed, ad-
10 judicated, or otherwise recognized by a judicial pro-
11 ceeding or by the State in which the user acquires
12 possession of the water or puts it to beneficial use.
13 Such term shall include water rights for federally
14 recognized Indian Tribes.

15 **SEC. 3. TREATMENT OF WATER RIGHTS.**

16 The Secretary shall not—

17 (1) condition the issuance, renewal, amendment,
18 or extension of any permit, approval, license, lease,
19 allotment, easement, right-of-way, or other land use
20 or occupancy agreement on the transfer of any water
21 right (including joint and sole ownership) directly or
22 indirectly to the United States, or on any impair-
23 ment of title or interest, in whole or in part, granted
24 or otherwise recognized under State law, by Federal
25 or State adjudication, decree, or other judgment, or
26 pursuant to any interstate water compact; or

1 (2) require any water user (including any feder-
2 ally recognized Indian Tribe) to apply for or acquire
3 a water right in the name of the United States
4 under State law as a condition of the issuance, re-
5 newal, amendment, or extension of any permit, ap-
6 proval, license, lease, allotment, easement, right-of-
7 way, or other land use or occupancy agreement.

8 **SEC. 4. POLICY DEVELOPMENT.**

9 In developing any rule, policy, directive, management
10 plan, or similar Federal action relating to the issuance,
11 renewal, amendment, or extension of any permit, approval,
12 license, lease, allotment, easement, right-of-way, or other
13 land use or occupancy agreement, the Secretary—

14 (1) shall—

15 (A) recognize the longstanding authority of
16 the States relating to evaluating, protecting, al-
17 locating, regulating, permitting, and adjudi-
18 cating water use; and

19 (B) coordinate with the States to ensure
20 that any rule, policy, directive, management
21 plan, or similar Federal action is consistent
22 with, and imposes no greater restriction or reg-
23 ulatory requirement, than applicable State
24 water law; and

25 (2) shall not—

- 1 (A) adversely affect—
- 2 (i) the authority of a State in—
- 3 (I) permitting the beneficial use
- 4 of water; or
- 5 (II) adjudicating water rights;
- 6 (ii) any definition established by a
- 7 State with respect to the term “beneficial
- 8 use”, “priority of water rights”, or “terms
- 9 of use”; or
- 10 (iii) any other right or obligation of a
- 11 State established under State law; or
- 12 (B) assert any connection between surface
- 13 and groundwater that is inconsistent with such
- 14 a connection recognized by State water laws.

15 **SEC. 5. EFFECT.**

16 (a) **EXISTING AUTHORITY.**—Nothing in this Act lim-
17 its or expands any existing legally recognized authority of
18 the Secretary to issue, grant, or condition any permit, ap-
19 proval, license, lease, allotment, easement, right-of-way, or
20 other land use or occupancy agreement on Federal land
21 that is subject to the jurisdiction of the Secretary.

22 (b) **RECLAMATION CONTRACTS.**—Nothing in this Act
23 in any way interferes with any existing or future Bureau
24 of Reclamation contract entered into pursuant to Federal
25 reclamation law (the Act of June 17, 1902 (32 Stat. 388,

1 chapter 1093), and Acts supplemental to and amendatory
2 of that Act).

3 (c) ENDANGERED SPECIES ACT.—Nothing in this
4 Act affects the implementation of the Endangered Species
5 Act of 1973 (16 U.S.C. 1531 et seq.).

6 (d) FEDERAL RESERVED WATER RIGHTS.—Nothing
7 in this Act limits or expands any existing reserved water
8 rights of the Federal Government on land administered
9 by the Secretary.

10 (e) FEDERAL POWER ACT.—Nothing in this Act lim-
11 its or expands authorities pursuant to section 4(e), 10(j),
12 or 18 of the Federal Power Act (16 U.S.C. 797(e), 803(j),
13 811).

14 (f) INDIAN WATER RIGHTS.—Nothing in this Act
15 limits or expands any existing reserved water right or trea-
16 ty right of any federally recognized Indian Tribe.

17 (g) FEDERALLY HELD STATE WATER RIGHTS.—
18 Nothing in this Act limits the ability of the Secretary,
19 through applicable State procedures, to acquire, use, en-
20 force, or protect a State water right owned by the United
21 States.

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