

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 302  
OFFERED BY MS. MALOY OF UTAH**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Water Rights Protec-  
3 tion Act”.

**4 SEC. 2. DEFINITIONS.**

5       In this Act:

6           (1) SECRETARY.—The term “Secretary”  
7 means, as applicable—

8                   (A) the Secretary of Agriculture; or

9                   (B) the Secretary of the Interior.

10          (2) WATER RIGHT.—The term “water right”  
11 means any surface water, groundwater, or water  
12 storage use filed, permitted, certificated, confirmed,  
13 decreed, adjudicated, or otherwise recognized by a  
14 judicial proceeding or by the State, in which the user  
15 acquires possession of the water or puts the water  
16 to beneficial use, including water rights of federally  
17 recognized Indian Tribes.

1 **SEC. 3. POLICY DEVELOPMENT.**

2 In developing any rule, policy, directive, management  
3 plan, or similar Federal action relating to the issuance,  
4 renewal, amendment, or extension of any permit, approval,  
5 license, lease, allotment, easement, right-of-way, or other  
6 land use or occupancy agreement, the Secretary—

7 (1) shall—

8 (A) recognize the longstanding authority of  
9 the States relating to evaluating, protecting, al-  
10 locating, regulating, permitting, and adjudi-  
11 cating water use; and

12 (B) coordinate with the States to ensure  
13 that any rule, policy, directive, management  
14 plan, or similar Federal action is consistent  
15 with, and imposes no greater restriction or reg-  
16 ulatory requirement, than applicable State  
17 water law; and

18 (2) shall not—

19 (A) assert any connection between surface  
20 water and groundwater that is inconsistent with  
21 such a connection recognized by State water  
22 law; or

23 (B) take any action that adversely af-  
24 fects—

25 (i) the authority of a State in—

- 1 (I) permitting the beneficial use  
2 of water; or  
3 (II) adjudicating water rights;  
4 (ii) any definition established by a  
5 State with respect to the term “beneficial  
6 use”, “priority of water rights”, or “terms  
7 of use”; or  
8 (iii) any other right or obligation of a  
9 State established under State law.

10 **SEC. 4. TREATMENT OF WATER RIGHTS.**

11 The Secretary shall not—

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

22 (2) require any water user (including any feder-  
23 ally recognized Indian Tribe) to apply for or acquire  
24 a water right in the name of the United States  
25 under State law as a condition of the issuance, re-

1 newal, amendment, or extension of any permit, ap-  
2 proval, license, lease, allotment, easement, right-of-  
3 way, or other land use or occupancy agreement; or

4 (3) condition or withhold the issuance, renewal,  
5 amendment, or extension of any permit, approval, li-  
6 cense, lease, allotment, easement, right-of-way, or  
7 other land use or occupancy agreement, in whole or  
8 in part, on—

9 (A) limiting the date, time, quantity, loca-  
10 tion of diversion or pumping, or place of use of  
11 a State water right beyond any applicable limi-  
12 tations under State water law; or

13 (B) the modification of the terms and con-  
14 ditions of groundwater withdrawal, guidance  
15 and reporting procedures, or conservation and  
16 source protection measures established by a  
17 State.

18 **SEC. 5. EFFECT.**

19 (a) RECLAMATION CONTRACTS.—Nothing in this Act  
20 in any way interferes with any existing or future Bureau  
21 of Reclamation contract entered into pursuant to Federal  
22 reclamation law (the Act of June 17, 1902 (32 Stat. 388,  
23 chapter 1093), and Acts supplemental to and amendatory  
24 of that Act).

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

4 (c) FEDERAL RESERVED WATER RIGHTS.—Nothing  
5 in this Act limits or expands any existing or future re-  
6 served water rights of the Federal Government on land  
7 administered by the Secretary.

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

12 (e) INDIAN WATER RIGHTS.—Nothing in this Act  
13 limits or expands any existing or future reserved water  
14 right or treaty right of any federally recognized Indian  
15 Tribe.

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

21 (g) INTERSTATE COMPACTS.—Nothing in this Act af-  
22 fects an allocation contained in, or limitations and require-  
23 ments of, any interstate water compact or decree of the

- 1 Supreme Court of the United States interpreting or en-
- 2 forcing an interstate water compact.

