

Union Calendar No. 187

115TH CONGRESS
1ST SESSION

H. R. 2939

[Report No. 115–257, Part I]

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

JULY 25, 2017

Additional sponsors: Mr. LABRADOR, Mr. PEARCE, and Mr. BUCK

JULY 25, 2017

Reported from the Committee on Natural Resources

JULY 25, 2017

The Committee on Agriculture discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) SECRETARY.—The term “Secretary”
9 means, as applicable—

10 (A) the Secretary of Agriculture; or

11 (B) the Secretary of the Interior.

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

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

21 The Secretary shall not—

22 (1) condition the issuance, renewal, amendment,
23 or extension of any permit, approval, license, lease,
24 allotment, easement, right-of-way, or other land use
25 or occupancy agreement on the transfer of any water

1 right (including joint and sole ownership) directly or
2 indirectly to the United States, or on any impair-
3 ment of title or interest, in whole or in part, granted
4 or otherwise recognized under State law, by Federal
5 or State adjudication, decree, or other judgment, or
6 pursuant to any interstate water compact; or

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

14 **SEC. 4. POLICY DEVELOPMENT.**

15 In developing any rule, policy, directive, management
16 plan, or similar Federal action relating to the issuance,
17 renewal, amendment, or extension of any permit, approval,
18 license, lease, allotment, easement, right-of-way, or other
19 land use or occupancy agreement, the Secretary—

20 (1) shall—

21 (A) recognize the longstanding authority of
22 the States relating to evaluating, protecting, al-
23 locating, regulating, permitting, and adjudi-
24 cating water use; and

1 (B) coordinate with the States to ensure
2 that any rule, policy, directive, management
3 plan, or similar Federal action is consistent
4 with, and imposes no greater restriction or reg-
5 ulatory requirement, than applicable State
6 water law; and

7 (2) shall not—

8 (A) adversely affect—

9 (i) the authority of a State in—

10 (I) permitting the beneficial use

11 of water; or

12 (II) adjudicating water rights;

13 (ii) any definition established by a

14 State with respect to the term “beneficial

15 use”, “priority of water rights”, or “terms

16 of use”; or

17 (iii) any other right or obligation of a

18 State established under State law; or

19 (B) assert any connection between surface
20 and groundwater that is inconsistent with such
21 a connection recognized by State water laws.

22 **SEC. 5. EFFECT.**

23 (a) **EXISTING AUTHORITY.**—Nothing in this Act lim-
24 its or expands any existing legally recognized authority of
25 the Secretary to issue, grant, or condition any permit, ap-

1 proval, license, lease, allotment, easement, right-of-way, or
2 other land use or occupancy agreement on Federal land
3 that is subject to the jurisdiction of the Secretary.

4 (b) RECLAMATION CONTRACTS.—Nothing in this Act
5 in any way interferes with any existing or future Bureau
6 of Reclamation contract entered into pursuant to Federal
7 reclamation law (the Act of June 17, 1902 (32 Stat. 388,
8 chapter 1093), and Acts supplemental to and amendatory
9 of that Act).

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

13 (d) FEDERAL RESERVED WATER RIGHTS.—Nothing
14 in this Act limits or expands any existing reserved water
15 rights of the Federal Government on land administered
16 by the Secretary.

17 (e) FEDERAL POWER ACT.—Nothing in this Act lim-
18 its or expands authorities pursuant to section 4(e), 10(j),
19 or 18 of the Federal Power Act (16 U.S.C. 797(e), 803(j),
20 811).

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

24 (g) FEDERALLY HELD STATE WATER RIGHTS.—
25 Nothing in this Act limits the ability of the Secretary,

1 through applicable State procedures, to acquire, use, en-
2 force, or protect a State water right owned by the United
3 States.

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