

117TH CONGRESS
1ST SESSION

H. R. 1679

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 9, 2021

Mrs. BOEBERT (for herself, Mr. AMODEI, Mr. BIGGS, Mr. BUCK, Mr. ESTES, Mr. FULCHER, Mr. GOSAR, Ms. HERRELL, Mr. LAMALFA, Mr. LAMBORN, Mr. MCCLINTOCK, Mr. MOORE of Utah, Mr. NEWHOUSE, Mr. SIMPSON, and Mr. STEWART) 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 Secretary of the Interior and the Secretary of Agriculture from conditioning any permit, lease, or other use agreement on the transfer of any water right to the United States, 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 “Western Water Secu-
5 rity Act”.

1 **SEC. 2. POLICY DEVELOPMENT.**

2 When developing any rule, policy, directive, manage-
3 ment plan, or similar Federal action relating to the
4 issuance, renewal, amendment, or extension of any permit,
5 approval, license, lease, allotment, easement, right-of-way,
6 or other 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 and groundwater that is inconsistent with such
21 a connection recognized by State water law; or

22 (B) take any action that adversely affects
23 the authority of a State in permitting the bene-
24 ficial use of water, adjudicating water rights,
25 definitions established by a State with respect
26 to the term “beneficial use”, “priority of water

1 rights”, or “terms of use”, or any other rights
2 or obligations of a State established under
3 State law.

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

5 The Secretary shall not—

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

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

23 **SEC. 4. EFFECT.**

24 (a) EXISTING AUTHORITY.—Nothing in this Act lim-
25 its or expands any existing legally recognized authority of

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

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

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

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

18 (e) FEDERAL POWER ACT.—Nothing in this Act lim-
19 its or expands authorities pursuant to section 4(e), 10(j),
20 or 18 of the Federal Power Act (16 U.S.C. 797(e), 803(j),
21 811).

22 (f) INDIAN WATER RIGHTS.—Nothing in this Act
23 limits or expands any existing and future reserved water
24 right or treaty right of any federally recognized Indian
25 Tribe.

1 (g) FEDERALLY HELD STATE WATER RIGHTS.—
2 Nothing in this Act limits the ability of the Secretary,
3 through applicable State procedures, to acquire, use, en-
4 force, or protect a State water right owned by the United
5 States.

6 (h) INTERSTATE COMPACTS.—Nothing in this Act ef-
7 fects the allocations contained in, or limitations and re-
8 quirements of, any interstate water compact or Supreme
9 Court decree interpreting or enforcing the same.

10 **SEC. 5. DEFINITIONS.**

11 In this Act:

12 (1) SECRETARY.—The term “Secretary”
13 means, as applicable—

14 (A) the Secretary of Agriculture; or

15 (B) the Secretary of the Interior.

16 (2) WATER RIGHT.—The term “water right”—

17 (A) means any surface, groundwater, or
18 storage use filed, permitted, certificated, con-
19 firmed, decreed, adjudicated, or otherwise rec-
20 ognized by a judicial proceeding or by the State
21 in which the user acquires possession of the
22 water or puts it to beneficial use; and

23 (B) includes water rights of federally rec-
24 ognized Indian Tribes.

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