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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 to require the Secretaries of the Interior and Agriculture to develop water planning instruments consistent with State law.

IN THE HOUSE OF REPRESENTATIVES

APRIL 16, 2015

Mr. TIPTON (for himself, Mr. AMODEI, Mr. BUCK, Mr. CHAFFETZ, Mr. COFFMAN, Mr. GOSAR, Mr. KELLY of Pennsylvania, Mr. LABRADOR, Mr. LAMALFA, Mrs. LOVE, Mr. LAMBORN, Mrs. LUMMIS, Mr. MCCLINTOCK, Mr. PEARCE, Mr. REED, Mr. RIBBLE, Mr. SIMPSON, Mr. SMITH of Texas, Mr. STEWART, Mr. THOMPSON of Pennsylvania, Mr. WESTERMAN, Mr. ZINKE, and Mr. FRANKS of Arizona) 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 to require the Secretaries of the Interior and Agriculture to develop water planning instruments consistent with State law.

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

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. DEFINITION OF WATER RIGHT.**

5 In this Act, the term “water right” means any sur-
6 face or groundwater right filed, permitted, certified, con-
7 firmed, decreed, adjudicated, or otherwise recognized by
8 a judicial proceeding or by the State in which the user
9 acquires possession of the water or puts the water to bene-
10 ficial use, including water rights for federally recognized
11 Indian tribes.

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

13 The Secretary of the Interior and the Secretary of
14 Agriculture shall not—

15 (1) condition or withhold, in whole or in part,
16 the issuance, renewal, amendment, or extension of
17 any permit, approval, license, lease, allotment, ease-
18 ment, right-of-way, or other land use or occupancy
19 agreement on—

20 (A) limitation or encumbrance of any
21 water right, or the transfer of any water right
22 (including joint and sole ownership), directly or
23 indirectly to the United States or any other des-
24 ignee; or

25 (B) any other impairment of any water
26 right, in whole or in part, granted or otherwise

1 recognized under State law, by Federal or State
2 adjudication, decree, or other judgment, or pur-
3 suant to any interstate water compact;

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

11 (3) assert jurisdiction over groundwater with-
12 drawals or impacts on groundwater resources, unless
13 jurisdiction is asserted, and any regulatory or policy
14 actions taken pursuant to such assertion are, con-
15 sistent with, and impose no greater restrictions or
16 regulatory requirements than, applicable State laws
17 (including regulations) and policies governing the
18 protection and use of groundwater resources; or

19 (4) infringe on the rights and obligations of a
20 State in evaluating, allocating, and adjudicating the
21 waters of the State originating on or under, or flow-
22 ing from, land owned or managed by the Federal
23 Government.

1 **SEC. 4. RECOGNITION OF STATE AUTHORITY.**

2 (a) IN GENERAL.—In carrying out section 3, the Sec-
3 retary of the Interior and the Secretary of Agriculture
4 shall—

5 (1) recognize the longstanding authority of the
6 States relating to evaluating, protecting, allocating,
7 regulating, and adjudicating groundwater by any
8 means, including a rulemaking, permitting, directive,
9 water court adjudication, resource management
10 planning, regional authority, or other policy; and

11 (2) coordinate with the States in the adoption
12 and implementation by the Secretary of the Interior
13 or the Secretary of Agriculture of any rulemaking,
14 policy, directive, management plan, or other similar
15 Federal action so as to ensure that such actions are
16 consistent with, and impose no greater restrictions
17 or regulatory requirements than, State groundwater
18 laws and programs.

19 (b) EFFECT ON STATE WATER RIGHTS.—In carrying
20 out this Act, the Secretary of the Interior and the Sec-
21 retary of Agriculture shall not take any action that ad-
22 versely affects—

23 (1) any water rights granted by a State;

24 (2) the authority of a State in adjudicating
25 water rights;

1 (3) definitions established by a State with re-
2 spect to the term “beneficial use”, “priority of water
3 rights”, or “terms of use”;

4 (4) terms and conditions of groundwater with-
5 drawal, guidance and reporting procedures, and con-
6 servation and source protection measures established
7 by a State;

8 (5) the use of groundwater in accordance with
9 State law; or

10 (6) any other rights and obligations of a State
11 established under State law.

12 **SEC. 5. EFFECT OF ACT.**

13 (a) **EFFECT ON EXISTING AUTHORITY.**—Nothing in
14 this Act limits or expands any existing legally recognized
15 authority of the Secretary of the Interior or the Secretary
16 of Agriculture to issue, grant, or condition any permit, ap-
17 proval, license, lease, allotment, easement, right-of-way, or
18 other land use or occupancy agreement on Federal land
19 subject to the jurisdiction of the Secretary of the Interior
20 or the Secretary of Agriculture, respectively.

21 (b) **EFFECT ON RECLAMATION CONTRACTS.**—Noth-
22 ing in this Act interferes with Bureau of Reclamation con-
23 tracts entered into pursuant to the reclamation laws.

1 (c) EFFECT ON ENDANGERED SPECIES ACT.—Noth-
2 ing in this Act affects the implementation of the Endan-
3 gered Species Act of 1973 (16 U.S.C. 1531 et seq.).

4 (d) EFFECT ON FEDERAL RESERVED WATER
5 RIGHTS.—Nothing in this Act limits or expands any exist-
6 ing or claimed reserved water rights of the Federal Gov-
7 ernment on land administered by the Secretary of the In-
8 terior or the Secretary of Agriculture.

9 (e) EFFECT ON FEDERAL POWER ACT.—Nothing in
10 this Act limits or expands authorities under sections 4(e),
11 10(j), or 18 of the Federal Power Act (16 U.S.C. 797(e),
12 803(j), 811).

13 (f) EFFECT ON INDIAN WATER RIGHTS.—Nothing in
14 this Act limits or expands any water right or treaty right
15 of any federally recognized Indian tribe.

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