



114TH CONGRESS
1ST SESSION

S. _____

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 SENATE OF THE UNITED STATES

Mr. BARRASSO introduced the following bill; which was read twice and referred to the Committee on _____
with Mr. Risch, Mr. Flake, Mr. Gardner, Mr. Heller, Mr. Crapo, Mr. Enzi, Mr. Hatch, and Mrs. Fischer

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Water Rights Protec-
5 tion Act".

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

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

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

10 The Secretary of the Interior and the Secretary of
11 Agriculture shall not—

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

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

22 (B) any other impairment of any water
23 right, in whole or in part, granted or otherwise
24 recognized under State law, by Federal or State
25 adjudication, decree, or other judgment, or pur-
26 suant to any interstate water compact;

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

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

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

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

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

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

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

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

20 (2) the authority of a State in adjudicating
21 water rights;

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

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

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

7 (6) any other rights and obligations of a State
8 established under State law.

9 **SEC. 5. EFFECT OF ACT.**

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

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

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

24 (d) **EFFECT ON FEDERAL RESERVED WATER**
25 **RIGHTS.**—Nothing in this Act limits or expands any exist-

1 ing or claimed reserved water rights of the Federal Gov-
2 ernment on land administered by the Secretary of the In-
3 terior or the Secretary of Agriculture.

4 (e) EFFECT ON FEDERAL POWER ACT.—Nothing in
5 this Act limits or expands authorities under sections 4(e),
6 10(j), or 18 of the Federal Power Act (16 U.S.C. 797(e),
7 803(j), 811).

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