

AMENDMENT TO
RULES COMMITTEE PRINT 116-54
OFFERED BY MR. FULCHER OF IDAHO

Page 1920, after line 19, insert the following:

1 **SEC. 81324. AQUIFER RECHARGE FLEXIBILITY.**

2 (a) SHORT TITLE.—This section may be cited as the
3 “Aquifer Recharge Flexibility Act”.

4 (b) DEFINITIONS.—In this section:

5 (1) BUREAU.—The term “Bureau” means the
6 Bureau of Reclamation.

7 (2) COMMISSIONER.—The term “Commis-
8 sioner” means the Commissioner of Reclamation.

9 (3) ELIGIBLE LAND.—The term “eligible land”,
10 with respect to a Reclamation project, means land
11 that—

12 (A) is authorized to receive water under
13 State law; and

14 (B) shares an aquifer with land located in
15 the service area of the Reclamation project.

16 (4) NET WATER STORAGE BENEFIT.—The term
17 “net water storage benefit” means an increase in the
18 volume of water that is—

19 (A) stored in 1 or more aquifers; and

1 (B)(i) available for use within the author-
2 ized service area of a Reclamation project; or

3 (ii) stored on a long-term basis to avoid or
4 reduce groundwater overdraft.

5 (5) RECLAMATION FACILITY.—The term “Rec-
6 lamation facility” means each of the infrastructure
7 assets that are owned by the Bureau at a Reclama-
8 tion project.

9 (6) RECLAMATION PROJECT.—The term “Rec-
10 lamation project” means any reclamation or irriga-
11 tion project, including incidental features thereof,
12 authorized by Federal reclamation law or the Act of
13 August 11, 1939 (commonly known as the “Water
14 Conservation and Utilization Act”) (53 Stat. 1418,
15 chapter 717; 16 U.S.C. 590y et seq.), or constructed
16 by the United States pursuant to such law, or in
17 connection with which there is a repayment or water
18 service contract executed by the United States pur-
19 suant to such law, or any project constructed by the
20 Secretary through the Bureau for the reclamation of
21 land.

22 (7) SECRETARY.—The term “Secretary” means
23 the Secretary of the Interior.

24 (c) FLEXIBILITY TO ALLOW GREATER AQUIFER RE-
25 CHARGE IN WESTERN STATES.—

1 (1) USE OF RECLAMATION FACILITIES.—

2 (A) IN GENERAL.—The Commissioner may
3 allow the use of excess capacity in Reclamation
4 facilities for aquifer recharge of non-Reclama-
5 tion project water, subject to applicable rates,
6 charges, and public participation requirements,
7 on the condition that—

8 (i) the use—

9 (I) shall not be implemented in a
10 manner that is detrimental to—

11 (aa) any power service or
12 water contract for the Reclama-
13 tion project; or

14 (bb) any obligations for fish,
15 wildlife, or water quality protec-
16 tion applicable to the Reclama-
17 tion project;

18 (II) shall be consistent with
19 water quality guidelines for the Rec-
20 lamation project;

21 (III) shall comply with all appli-
22 cable—

23 (aa) Federal laws; and

24 (bb) policies of the Bureau;

25 and

1 (IV) shall comply with all appli-
2 cable State laws and policies; and

3 (ii) the non-Federal party to an exist-
4 ing contract for water or water capacity in
5 a Reclamation facility consents to the use
6 of the Reclamation facility under this sub-
7 section.

8 (B) EFFECT ON EXISTING CONTRACTS.—
9 Nothing in this subsection affects a contract—

10 (i) in effect on the date of enactment
11 of this Act; and

12 (ii) under which the use of excess ca-
13 pacity in a Bureau conveyance facility for
14 carriage of non-Reclamation project water
15 for aquifer recharge is allowed.

16 (2) AQUIFER RECHARGE ON ELIGIBLE LAND.—

17 (A) IN GENERAL.—Subject to subpara-
18 graphs (C) and (D), the Secretary may contract
19 with a holder of a water service or repayment
20 contract for a Reclamation project to allow the
21 contractor, in accordance with applicable State
22 laws and policies—

23 (i) to directly use water available
24 under the contract for aquifer recharge on
25 eligible land; or

1 (ii) to enter into an agreement with
2 an individual or entity to transfer water
3 available under the contract for aquifer re-
4 charge on eligible land.

5 (B) AUTHORIZED PROJECT USE.—The use
6 of a Reclamation facility for aquifer recharge
7 under subparagraph (A) shall be considered an
8 authorized use for the Reclamation project if
9 requested by a holder of a water service or re-
10 payment contract for the Reclamation facility.

11 (C) MODIFICATIONS TO CONTRACTS.—The
12 Secretary may contract with a holder of a water
13 service or repayment contract for a Reclamation
14 project under subparagraph (A) if the Secretary
15 determines that a new contract or contract
16 amendment described in that paragraph is—

17 (i) necessary to allow for the use of
18 water available under the contract for aq-
19 uifer recharge under this subsection;

20 (ii) in the best interest of the Rec-
21 lamation project and the United States;
22 and

23 (iii) approved by the contractor that is
24 responsible for repaying the cost of con-
25 struction, operations, and maintenance of

1 the facility that delivers the water under
2 the contract.

3 (D) REQUIREMENTS.—The use of Rec-
4 lamation facilities for the use or transfer of
5 water for aquifer recharge under this subsection
6 shall be subject to the requirements that—

7 (i) the use or transfer shall not be im-
8 plemented in a manner that materially im-
9 pacts any power service or water contract
10 for the Reclamation project;

11 (ii) before the use or transfer, the
12 Secretary shall determine that the use or
13 transfer—

14 (I) results in a net water storage
15 benefit for the Reclamation project; or

16 (II) contributes to the recharge
17 of an aquifer on eligible land; and

18 (iii) the use or transfer complies with
19 all applicable—

20 (I) Federal laws and policies; and

21 (II) interstate water compacts.

22 (3) CONVEYANCE FOR AQUIFER RECHARGE
23 PURPOSES.—The holder of a right-of-way, easement,
24 permit, or other authorization to transport water
25 across public land administered by the Bureau of

1 Land Management may transport water for aquifer
2 recharge purposes without requiring additional au-
3 thorization from the Secretary where the use does
4 not expand or modify, other than the timing of use,
5 the operation of the right-of-way, easement, permit,
6 or other authorization across public land.

7 (4) EFFECT.—Nothing in this section creates,
8 impairs, alters, or supersedes a Federal or State
9 water right.

10 (5) EXEMPTION.—This Act shall not apply to
11 the State of California.

12 (6) STATE-LED ADVISORY GROUP.—The Sec-
13 retary may participate in any State-led collaborative,
14 multi-stakeholder advisory group created in any wa-
15 tershed the purpose of which is to monitor, review,
16 and assess aquifer recharge activities.

