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

Page 1920, after line 19, insert the following:

SEC. 81324. AQUIFER RECHARGE FLEXIBILITY.

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

(b) DEFINITIONS.—In this section:

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

(2) COMMISSIONER.—The term “Commissioner” means the Commissioner of Reclamation.

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

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

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

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

(A) stored in 1 or more aquifers; and
(B)(i) available for use within the authorized service area of a Reclamation project; or
(ii) stored on a long-term basis to avoid or reduce groundwater overdraft.

(5) RECLAMATION FACILITY.—The term “Reclamation facility” means each of the infrastructure assets that are owned by the Bureau at a Reclamation project.

(6) RECLAMATION PROJECT.—The term “Reclamation project” means any reclamation or irrigation project, including incidental features thereof, authorized by Federal reclamation law or the Act of August 11, 1939 (commonly known as the “Water Conservation and Utilization Act”) (53 Stat. 1418, chapter 717; 16 U.S.C. 590y et seq.), or constructed by the United States pursuant to such law, or in connection with which there is a repayment or water service contract executed by the United States pursuant to such law, or any project constructed by the Secretary through the Bureau for the reclamation of land.

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

(c) FLEXIBILITY TO ALLOW GREATER AQUIFER RECHARGE IN WESTERN STATES.—
(1) Use of Reclamation Facilities.—

(A) In general.—The Commissioner may allow the use of excess capacity in Reclamation facilities for aquifer recharge of non-Reclamation project water, subject to applicable rates, charges, and public participation requirements, on the condition that—

(i) the use—

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

(aa) any power service or water contract for the Reclamation project; or

(bb) any obligations for fish, wildlife, or water quality protection applicable to the Reclamation project;

(II) shall be consistent with water quality guidelines for the Reclamation project;

(III) shall comply with all applicable—

(aa) Federal laws; and

(bb) policies of the Bureau;
(IV) shall comply with all applicable State laws and policies; and

(ii) the non-Federal party to an existing contract for water or water capacity in a Reclamation facility consents to the use of the Reclamation facility under this subsection.

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

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

(ii) under which the use of excess capacity in a Bureau conveyance facility for carriage of non-Reclamation project water for aquifer recharge is allowed.

(2) AQUIFER RECHARGE ON ELIGIBLE LAND.—

(A) IN GENERAL.—Subject to subparagraphs (C) and (D), the Secretary may contract with a holder of a water service or repayment contract for a Reclamation project to allow the contractor, in accordance with applicable State laws and policies—

(i) to directly use water available under the contract for aquifer recharge on eligible land; or
(ii) to enter into an agreement with
an individual or entity to transfer water
available under the contract for aquifer re-
charge on eligible land.

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

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

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

(ii) in the best interest of the Re-
lamation project and the United States;
and

(iii) approved by the contractor that is
responsible for repaying the cost of con-
struction, operations, and maintenance of
the facility that delivers the water under
the contract.

(D) REQUIREMENTS.—The use of Reclama-
tion facilities for the use or transfer of
water for aquifer recharge under this subsection
shall be subject to the requirements that—

(i) the use or transfer shall not be im-
plemented in a manner that materially im-

acts any power service or water contract
for the Reclamation project;

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

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

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

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

(I) Federal laws and policies; and

(II) interstate water compacts.

(3) CONVEYANCE FOR AQUIFER RECHARGE

PURPOSES.—The holder of a right-of-way, easement,
permit, or other authorization to transport water
across public land administered by the Bureau of
Land Management may transport water for aquifer recharge purposes without requiring additional authorization from the Secretary where the use does not expand or modify, other than the timing of use, the operation of the right-of-way, easement, permit, or other authorization across public land.

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

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

(6) STATE-LED ADVISORY GROUP.—The Secretary may participate in any State-led collaborative, multi-stakeholder advisory group created in any watershed the purpose of which is to monitor, review, and assess aquifer recharge activities.