

AMENDMENT
TO RULES COMMITTEE PRINT 115-72
OFFERED BY MR. TIPTON OF COLORADO

Add at the end of title I the following:

1 **SEC. ____ . WATER RIGHTS PROTECTION.**

2 (a) **SHORT TITLE.**—This section may be cited as the
3 “Water Rights Protection Act of 2018”.

4 (b) **DEFINITIONS.**—In this section:

5 (1) **SECRETARY.**—The term “Secretary”
6 means, as applicable—

7 (A) the Secretary of Agriculture; or

8 (B) the Secretary of the Interior.

9 (2) **WATER RIGHT.**—The term “water right”
10 means any surface, groundwater, or storage use
11 filed, permitted, certificated, confirmed, decreed, ad-
12 judicated, or otherwise recognized by a judicial pro-
13 ceeding or by the State in which the user acquires
14 possession of the water or puts it to beneficial use.

15 (c) **TREATMENT OF WATER RIGHTS.**—The Secretary
16 shall not—

17 (1) condition the issuance, renewal, amendment,
18 or extension of any permit, approval, license, lease,
19 allotment, easement, right-of-way, or other land use

1 or occupancy agreement on the transfer of any water
2 right (including joint and sole ownership) directly or
3 indirectly to the United States, or on any impair-
4 ment of title or interest, in whole or in part, granted
5 or otherwise recognized under State law, by Federal
6 or State adjudication, decree, or other judgment, or
7 pursuant to any interstate water compact; or

8 (2) require any water user to apply for or ac-
9 quire a water right in the name of the United States
10 under State law as a condition of the issuance, re-
11 newal, amendment, or extension of any permit, ap-
12 proval, license, lease, allotment, easement, right-of-
13 way, or other land use or occupancy agreement.

14 (d) POLICY DEVELOPMENT.—In developing any rule,
15 policy, directive, management plan, or similar Federal ac-
16 tion relating to the issuance, renewal, amendment, or ex-
17 tension of any permit, approval, license, lease, allotment,
18 easement, right-of-way, or other land use or occupancy
19 agreement, the Secretary—

20 (1) shall—

21 (A) recognize the longstanding authority of
22 the States relating to evaluating, protecting, al-
23 locating, regulating, permitting, and adjudi-
24 cating water use; and

1 (B) coordinate with the States to ensure
2 that any rule, policy, directive, management
3 plan, or similar Federal action is consistent
4 with, and imposes no greater restriction or reg-
5 ulatory requirement, than applicable State
6 water law; and

7 (2) shall not—

8 (A) adversely affect—

9 (i) the authority of a State in—

10 (I) permitting the beneficial use
11 of water; or

12 (II) adjudicating water rights;

13 (ii) any definition established by a
14 State with respect to the term “beneficial
15 use”, “priority of water rights”, or “terms
16 of use”; or

17 (iii) any other right or obligation of a
18 State established under State law; or

19 (B) assert any connection between surface
20 and groundwater that is inconsistent with such
21 a connection recognized by State water laws.

22 (e) EFFECT.—

23 (1) EXISTING AUTHORITY.—Nothing in this
24 section limits or expands any existing legally recog-
25 nized authority of the Secretary to issue, grant, or

1 condition any permit, approval, license, lease, allot-
2 ment, easement, right-of-way, or other land use or
3 occupancy agreement on Federal land that is subject
4 to the jurisdiction of the Secretary.

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

11 (3) ENDANGERED SPECIES ACT.—Nothing in
12 this section affects the implementation of the En-
13 dangered Species Act of 1973 (16 U.S.C. 1531 et
14 seq.).

15 (4) FEDERAL RESERVED WATER RIGHTS.—
16 Nothing in this section limits or expands any exist-
17 ing reserved water rights of the Federal Government
18 on land administered by the Secretary.

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

23 (6) INDIAN WATER RIGHTS.—Nothing in this
24 section shall have any effect on tribal water rights
25 or their adjudication, or the protection, settlement,

1 or enforcement and/or administration of such rights
2 by either Indian tribes or the United States as trust-
3 ee for Indian tribes.

4 (7) FEDERALLY HELD STATE WATER
5 RIGHTS.—Nothing in this section limits the ability of
6 the Secretary, through applicable State procedures,
7 to acquire, use, enforce, or protect a State water
8 right owned by the United States.

