

116TH CONGRESS
1ST SESSION

H. R. 2871

To provide flexibility to allow greater aquifer recharge, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2019

Mr. FULCHER introduced the following bill; which was referred to the
Committee on Natural Resources

A BILL

To provide flexibility to allow greater aquifer recharge, and
for other purposes.

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 “Aquifer Recharge
5 Flexibility Act”.

6 **SEC. 2. FLEXIBILITY TO ALLOW GREATER AQUIFER RE-**
7 **CHARGE IN WESTERN STATES.**

8 (a) DEFINITIONS.—In this Act:

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

1 (2) COMMISSIONER.—The term “Commis-
2 sioner” means the Commissioner of the Bureau.

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

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

8 (B) shares a groundwater source with land
9 located in the service area of the Reclamation
10 project.

11 (4) IN-LIEU RECHARGE.—The term “in-lieu re-
12 charge” means the use of surface water instead of
13 pumped groundwater if that use of surface water
14 will cause the direct reduction or elimination of
15 groundwater withdrawals.

16 (5) 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 one or more aquifers; and

20 (B)(i) available for use within the area
21 served by a Reclamation project; or

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

24 (6) RECLAMATION FACILITY.—The term “Rec-
25 lamation facility” means each of the infrastructure

1 assets that are owned by the Bureau at a Reclama-
2 tion project.

3 (7) RECLAMATION PROJECT.—The term “Rec-
4 lamation project” means any reclamation or irriga-
5 tion project, including incidental features thereof,
6 authorized by Federal reclamation law, or con-
7 structed by the United States pursuant to such law,
8 or in connection with which there is a repayment or
9 water service contract executed by the United States
10 pursuant to such law, or any project constructed by
11 the Secretary through the Bureau of Reclamation
12 for the reclamation of land.

13 (8) SECRETARY.—The term “Secretary” means
14 the Secretary of the Interior.

15 (b) USE OF BUREAU FACILITIES.—

16 (1) IN GENERAL.—The Commissioner may
17 allow the use of excess capacity in Bureau convey-
18 ance facilities for carriage of non-Reclamation
19 project water for aquifer recharge, subject to appli-
20 cable rates, charges, and public participation re-
21 quirements, on the condition that—

22 (A) the use—

23 (i) shall not be implemented in a man-
24 ner that is detrimental to—

1 (I) any water or power service
2 contract for the Reclamation project;
3 or

4 (II) any existing obligations for
5 fish, wildlife, or water quality protec-
6 tion;

7 (ii) shall be consistent with existing
8 water quality guidelines for the Reclama-
9 tion project; and

10 (iii) shall comply with all applicable
11 Federal and State law and policies of the
12 Bureau of Reclamation; and

13 (B) the non-Federal party to an existing
14 contract for water or water capacity in a Rec-
15 lamation facility shall consent to the use of the
16 Reclamation facility under this subsection.

17 (2) EFFECT ON EXISTING CONTRACTS.—Noth-
18 ing in this subsection affects a contract—

19 (A) in effect on the date of enactment of
20 this Act; and

21 (B) under which the use of excess capacity
22 in a Bureau conveyance facility for carriage of
23 non-Reclamation project water for aquifer re-
24 charge is allowed.

25 (c) AQUIFER RECHARGE ON ELIGIBLE LAND.—

1 (1) IN GENERAL.—Subject to paragraphs (3)
2 and (4), a holder of a water service or repayment
3 contract for a Reclamation project may—

4 (A) directly use water available under the
5 contract for aquifer recharge on eligible land; or

6 (B) enter into an agreement with an indi-
7 vidual or entity to transfer water available
8 under the contract for aquifer recharge on eligi-
9 ble land.

10 (2) AUTHORIZED PROJECT USE.—Notwith-
11 standing any other provision of law, the use of water
12 for aquifer recharge under paragraph (1) shall be
13 considered an authorized use for the Reclamation
14 project under the reclamation laws.

15 (3) MODIFICATIONS TO CONTRACTS.—The Sec-
16 retary may modify an existing water contract de-
17 scribed in paragraph (1) if the Secretary determines
18 that the modification is—

19 (A) necessary to allow for the use of water
20 available under the contract for aquifer re-
21 charge under this subsection;

22 (B) in the best interest of the Reclamation
23 project and the United States; and

24 (C) approved by the association of water
25 users that is responsible for repaying the cost

1 of construction, operations, and maintenance of
2 the facility that delivers the water under the
3 contract.

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

7 (A) the use or transfer shall not be imple-
8 mented in a manner that is detrimental to any
9 water or power service for the Reclamation
10 project; and

11 (B) before the use or transfer, the Sec-
12 retary shall determine that the use or trans-
13 fer—

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

16 (ii) contributes to the recharge of a
17 depleted aquifer on eligible land; and

18 (ii) complies with all applicable Fed-
19 eral and State laws and policies.

20 (d) IN-LIEU RECHARGE.—To the extent consistent
21 with State laws and policies, in-lieu recharge may be car-
22 ried out under this Act.

23 (e) SENSE OF CONGRESS.—It is the sense of Con-
24 gress that—

1 (1) the Secretary should encourage the use of
2 public land administered by the Bureau of Land
3 Management for aquifer recharge, where appro-
4 priate, consistent with—

5 (A) the existing grant of right-of-way;

6 (B) as applicable, the Federal Land Policy
7 and Management Act of 1976 (43 U.S.C. 1701
8 et seq.); and

9 (C) applicable land and resource manage-
10 ment plans; and

11 (2) the Secretary should consider whether aquifer
12 recharge may be appropriate in certain areas of
13 critical environmental concern, if aquifer recharge—

14 (A) would enhance the values for which the
15 area of critical environmental concern has been
16 designated; and

17 (B) is consistent with the management re-
18 quirements for the area of critical environ-
19 mental concern.

20 (f) CONVEYANCE FOR AQUIFER RECHARGE PUR-
21 POSES.—The holder of a right-of-way, easement, permit,
22 or other authorization to transport water across public
23 land administered by the Bureau of Land Management
24 is authorized to transport water for aquifer recharge pur-
25 poses, including outside of the regular period of use, with-

1 out requiring additional authorization from the Secretary
2 where the use does not expand or interfere with the oper-
3 ation of the right-of-way, easement, permit, or other au-
4 thorization across public land.

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

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