

WATER RIGHTS PROTECTION ACT

NOVEMBER 25, 2025.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. WESTERMAN, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 302]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 302) 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 Secretary of the Interior and the Secretary of Agriculture, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Water Rights Protection Act”.

SEC. 2. DEFINITIONS.

In this Act:

- (1) SECRETARY.—The term “Secretary” means, as applicable—
(A) the Secretary of Agriculture; or
(B) the Secretary of the Interior.

- (2) WATER RIGHT.—The term “water right” means any surface water, ground-water, or water storage use filed, permitted, certificated, confirmed, decreed, adjudicated, or otherwise recognized by a judicial proceeding or by the State, in which the user acquires possession of the water or puts the water to beneficial use, including water rights of federally recognized Indian Tribes.

SEC. 3. POLICY DEVELOPMENT.

In developing any rule, policy, directive, management plan, or similar Federal action relating to the issuance, renewal, amendment, or extension of any permit, ap-

proval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement, the Secretary—

(1) shall—

(A) recognize the longstanding authority of the States relating to evaluating, protecting, allocating, regulating, permitting, and adjudicating water use; and

(B) coordinate with the States to ensure that any rule, policy, directive, management plan, or similar Federal action is consistent with, and imposes no greater restriction or regulatory requirement, than applicable State water law; and

(2) shall not—

(A) assert any connection between surface water and groundwater that is inconsistent with such a connection recognized by State water law; or

(B) take any action that adversely affects—

(i) the authority of a State in—

(I) permitting the beneficial use of water; or

(II) adjudicating water rights;

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

(iii) any other right or obligation of a State established under State law.

SEC. 4. TREATMENT OF WATER RIGHTS.

The Secretary shall not—

(1) condition the issuance, renewal, amendment, or extension of any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement on the transfer of any water right (including joint and sole ownership) directly or indirectly to the United States, or on any impairment of title or interest, in whole or in part, granted or otherwise recognized under State law, by Federal or State adjudication, decree, or other judgment, or pursuant to any interstate water compact;

(2) require any water user (including any federally recognized Indian Tribe) to apply for or acquire a water right in the name of the United States under State law as a condition of the issuance, renewal, amendment, or extension of any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement; or

(3) condition or withhold the issuance, renewal, amendment, or extension of any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement, in whole or in part, on—

(A) limiting the date, time, quantity, location of diversion or pumping, or place of use of a State water right beyond any applicable limitations under State water law; or

(B) the modification of the terms and conditions of groundwater withdrawal, guidance and reporting procedures, or conservation and source protection measures established by a State.

SEC. 5. EFFECT.

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

(b) ENDANGERED SPECIES ACT.—Nothing in this Act affects the implementation of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(c) FEDERAL RESERVED WATER RIGHTS.—Nothing in this Act limits or expands any existing or future reserved water rights of the Federal Government on land administered by the Secretary.

(d) FEDERAL POWER ACT.—Nothing in this Act limits or expands authorities pursuant to sections 4(e), 10(j), or 18 of the Federal Power Act (16 U.S.C. 797(e), 803(j), 811).

(e) INDIAN WATER RIGHTS.—Nothing in this Act limits or expands any existing or future reserved water right or treaty right of any federally recognized Indian Tribe.

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

(g) INTERSTATE COMPACTS.—Nothing in this Act affects an allocation contained in, or limitations and requirements of, any interstate water compact or decree of the Supreme Court of the United States interpreting or enforcing an interstate water compact.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 302 is 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 Secretary of the Interior and the Secretary of Agriculture, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 302 requires that any federal action taken by the Departments of the Interior and Agriculture (Departments) that impact water rights impose no greater restriction on those rights than applicable state law and does not adversely affect state authority over water rights. In addition, the bill prohibits agencies within the Departments from acquiring state recognized water rights as a condition of federal permits, leases, allotments or other land use agreements.

Western states have historically held the right to their own water rights, however in the 1920s the federal government began to pursue the establishment of water rights with increased frequency. During this period, the federal government could not be bound by a water rights determination in state court because the federal government was immune from state court decisions.¹ This changed in 1952 when Congress passed the so called “McCarran Amendment” (43 U.S.C. 666), which waived the federal government’s immunity from State court decisions and laws to such proceedings. This landmark law continued a tradition of federal deference to state water laws but put in place a framework under which the federal government was treated like a private entity for the purposes of seeking water rights within western states.²

The issue of the relationship between federal agencies and state water rights resurfaced in 2014 when the United States Forest Service (USFS) published a press release stating that USFS needed to “improve the Forest Service’s ability to manage and analyze the potential uses of National Forest Service (NFS) land that could affect groundwater resources.”³ The USFS indicated that this proposal would not impact a state’s ability to manage their own water rights despite the proposal including that the USFS would “evaluate all applications to States for water rights on NFS lands and applications for water rights on adjacent lands that could adversely affect NFS groundwater resources.”⁴ For example, in 2011 USFS issued a national interim directive for all 122 public land ski areas in the United States. The directive included a clause requiring applicant ski areas to relinquish privately held water rights to the United States as a permit condition.⁵

This bill would ensure the long-standing precedent giving states primacy over water rights determinations. Similar versions of this bill have been introduced each Congress since the 113th Congress. A similar version of this bill passed the House by a bipartisan vote

¹ Bill Report, Water Rights Protection Act of 2017. July 25, 2017.

² Id.

³ United States Department of Agriculture: U.S. Forest Service Proposes New Management Practices for Stewardship of Water Resources, May 5, 2014 (press release).

⁴ Forest Service Groundwater Resource Management Chapter 2560.03.03: p. 9–10.

⁵ Bill Report, Water Rights Protection Act of 2017. July 25, 2017.

of 238–174 during the 113th Congress⁶ and another was reported favorably by the Committee on Natural Resources in the 115th Congress.⁷

COMMITTEE ACTION

H.R. 302 was introduced on January 9, 2025, by Representative Celeste Maloy (R–UT). The bill was referred to the Committee on Natural Resources. The bill was also referred to the Committee on Agriculture. On February 12, 2025, the Committee on Natural Resources met to consider the bill. Representative Celeste Maloy (R–UT) offered an Amendment in the Nature of a Substitute designated Maloy_011 ANS. The Amendment in the Nature of a Substitute was agreed to by voice vote. The bill, as amended, was ordered favorably reported to the House of Representatives by a roll call vote of 22 yeas to 16 nays, as follows:

⁶Text–H.R. 3189–113th Congress (2013–2014): Water Rights Protection Act | Congress.gov | Library of Congress.

⁷Actions–H.R. 2939–115th Congress (2017–2018): Water Rights Protection Act of 2017 | Congress.gov | Library of Congress.

Committee on Natural Resources

U.S. House of Representatives

119th Congress

Date: February 12, 2025

Recorded Vote #: 1

Meeting on / Amendment on: On Favorably Reporting, as amended, **H.R. 302 (Rep. Maloy), "Water Rights Protection Act of 2025"**

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Westerman, AR, Chairman	X			Mr. Huffman, CA		X	
Mr. Wittman, VA	X			Mr. Grijalva, AZ			
Mr. McClintock, CA	X			Mr. Neguse, CO			
Mr. Gosar, AZ	X			Ms. Leger Fernandez, NM			
Mrs. Radewagen, AS	X			Ms. Stansbury, NM		X	
Mr. LaMalfa, CA				Ms. Hoyle, OR		X	
Mr. Webster, FL	X			Mr. Magaziner, RI		X	
Mr. Fulcher, ID	X			Mr. Golden, ME		X	
Mr. Stauber, MN	X			Mr. Min, CA		X	
Mr. Tiffany, WI	X			Ms. Dexter, OR		X	
Ms. Boebert, CO				Mr. Hernández, PR		X	
Mr. Bentz, OR	X			Ms. Randall, WA		X	
Ms. Kiggans, VA	X			Ms. Ansari, AZ		X	
Mr. Hunt, TX	X			Ms. Elfreth, MD		X	
Mr. Collins, GA	X			Mr. Gray, CA			
Ms. Hageman, WY	X			Ms. Rivas, CA		X	
Mr. Amodei, NV				Ms. Velázquez, NY		X	
Mr. Walberg, MI	X			Mrs. Dingell, MI		X	
Mr. Ezell, MS	X			Mr. Soto, FL		X	
Ms. Maloy, UT	X			Ms. Brownley, CA		X	
Mr. McDowell, NC	X						
Mr. Crank, CO	X						
Mr. Begich, AK	X						
Mr. Hurd, CO	X						
Mr. Kennedy, UT	X			TOTAL:	22	16	

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing in the 118th Congress by the Subcommittee on Water, Wildlife and Fisheries held on July 9, 2024.

SECTION-BY-SECTION ANALYSIS

*Section 1. Short title**Section 2. Definitions**Section 3. Policy development*

- When developing any Federal action related to a land use or occupancy agreement, the Secretary shall recognize State authority over adjudicating water use.
- The Secretary shall not take any action that adversely affects State authority over adjudicating water rights.

Section 4. Treatment of water rights

- The Secretary shall not condition the issuance of any land use or occupancy agreement on the transfer of water rights directly or indirectly to the United States.
- The Secretary shall not require any water user to apply for or acquire a water right in the name of the United States under state law as a condition of receiving land use or occupancy agreement.
- The Secretary shall not condition a land use or occupancy agreement on limitation State water right beyond any applicable limitations under State water law, this includes managing ground-water based on measures established by a State.

Section 5. Effect

- Clarifies that this bill does not affect the implementation of Bureau of Reclamation contracts, the Endangered Species Act, federal reserved water rights the Federal Power Act, Indian water rights, federal held State water rights or interstate compacts.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

H.R. 302, Water Rights Protection Act			
As ordered reported by the House Committee on Natural Resources on February 12, 2025			
By Fiscal Year, Millions of Dollars	2025	2025-2030	2025-2035
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2036?	No	Statutory pay-as-you-go procedures apply?	No
Mandate Effects			
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2036?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 302 would prohibit the Departments of Agriculture and the Interior from requiring certain entities to transfer their water rights to the United States as a condition for using public lands. The bill also would require the departments to consult with states when developing policies related to land use agreements.

CBO expects that implementing H.R. 302 would not affect the use of public land or any associated federal receipts, which are recorded in the budget as changes to direct spending. Thus, CBO estimates that enacting the bill would have no effect on direct spending. CBO estimates that the administrative costs to implement the bill would be insignificant over the 2025–2030 period. Any spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Alaina Rhee. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is 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 Secretary of the Interior and the Secretary of Agriculture, and for other purposes.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

According to the Congressional Budget Office, H.R. 302 contains no unfunded mandates as defined by the Unfunded Mandates Reform Act.

EXISTING PROGRAMS

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95–220, as amended by Public Law 98–169) as relating to other programs.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW

As ordered reported by the Committee on Natural Resources, H.R. 302 would make no changes in existing law.

COMMITTEE CORRESPONDENCE

U.S. House of Representatives
Committee on Agriculture
 Room 1501, Longworth House Office Building
 Washington, DC 20515-6001
 (202) 225-2171

November 6, 2025

The Honorable Bruce Westerman, Chairman
 Committee on Natural Resources
 1324 Longworth House Office Building
 Washington, DC 20515

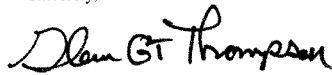
Dear Mr. Chairman:

This letter confirms our mutual understanding regarding H.R. 302, the "Water Rights Protection Act of 2025." Thank you for collaborating with the Committee on Agriculture on the matters within our jurisdiction.

The Committee on Agriculture will forego any further consideration of this bill. However, by foregoing consideration at this time, we do not waive any jurisdiction over any subject matter contained in this or similar legislation. The Committee on Agriculture also reserves the right to seek appointment of an appropriate number of conferees, should it become necessary, and ask that you support such a request.

We would appreciate a response to this letter confirming this understanding with respect to H.R. 302 and request a copy of our letters on this matter be published in the Congressional Record during Floor consideration.

Sincerely,



Glenn "GT" Thompson
 Chairman

Cc: The Honorable Angie Craig, Ranking Member, Committee on Agriculture
 The Honorable Jared Huffman, Ranking Member, Committee on Natural Resources
 The Honorable Mike Johnson, Speaker of the U.S. House of Representatives
 The Honorable Jason Smith, Parliamentarian, U.S. House of Representatives

BRUCE WESTERMAN OF ARKANSAS
CHAIRMAN

VIVIAN MOEGLEN
STAFF DIRECTOR

JARED HUFFMAN OF CALIFORNIA
RANKING DEMOCRAT

ANA UNRUH COHEN
DEMOCRATIC STAFF DIRECTOR

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

November 10, 2025

The Honorable Glenn Thompson
Chairman
Committee on Agriculture
1301 Longworth House Office Building
Washington, DC 20515

Dear Chairman Thompson:

I write regarding H.R. 302, the "Water Rights Protection Act of 2025," which was ordered reported by the Committee on Natural Resources on February 12, 2025.

I recognize that the bill contains provisions that fall within the jurisdiction of the Committee on Agriculture and appreciate your willingness to forgo further consideration of the bill. I acknowledge that the Committee on Agriculture will not formally consider H.R. 302 and agree that the inaction of your Committee with respect to the bill does not waive any jurisdiction over the subject matter contained therein.

I am pleased to support your request to name members of the Committee on Agriculture to any conference committee to consider such provisions. I will ensure that our exchange of letters is included in the *Congressional Record* during floor consideration of the bill and will include such letters in the committee report on H.R. 302. I appreciate your cooperation regarding this legislation.

Sincerely,



Bruce Westerman
Chairman
Committee on Natural Resources

cc: The Honorable Mike Johnson, Speaker of the House
The Honorable Angie Craig, Ranking Member, Committee on Agriculture
The Honorable Jared Huffman, Ranking Member, Committee on Natural Resources
The Honorable Jason Smith, Parliamentarian

DISSENTING VIEWS

H.R. 302, the Water Rights Protection Act, would prohibit the Secretaries of the Interior and Agriculture from conditioning future permits on federal land on the transfer of water rights to the federal government or on, in some instances, a requirement that the permit holder apply for water rights in the U.S. government's name. The bill would, contrary to established law, also prohibit the federal government from requiring the federal permit holder to meet federal resource protection standards if those conditions supersede the baseline requirements from the state. These provisions would undermine long-standing authorities of the Departments of the Interior and Agriculture to establish conditions to protect the lands and resources Congress has entrusted both agencies to manage.

The Water Rights Protection Act was initially introduced in 2013, in the 113th Congress, to resolve a dispute between the U.S. Forest Service and the National Ski Areas Associations over water rights on federal lands. In 2011, the Forest Service had issued an Interim Directive for ski area operators on federal lands, seeking to require ski areas to transfer their water rights to the federal government. The Forest Service was concerned that the value of these water rights could incentivize ski resort owners to sell them, leaving the Forest Service to manage the land with no access to water for future resort operations or other uses. The ski areas contended that the 2011 directive violated Colorado water law and the Colorado Constitution. In 2012, a federal court ruled that the Forest Service must withdraw the directive on procedural grounds. The Forest Service revised its position in 2013, stating the agency could achieve its land management goals without requiring the transfer of privately held water rights to the government, and accordingly the agency issued a final directive, in 2015, that allows ski areas to maintain ownership of their water rights, as long as assurances are made that sufficient water will remain for the ski area's operations, even if the ski resort is later sold. Importantly, the new directive was supported by the ski industry, rendering the Water Rights Protection Act unnecessary.

While the federal government often defers to state law in the allocation of water, the Supreme Court has established that the federal government has federal reserved water rights that allow the federal government to remove water available for state law appropriation and to establish and exercise federal water rights that don't necessarily accord with state law. These federal rights coexist with water rights administered under state law. Federal reserved water rights were recognized by the U.S. Supreme Court in *Winters*

*v. United States*¹ in 1908. Under the *Winters* doctrine, when the federal government reserves land from the public domain for the federal purpose of creating a tribal reservation, it also reserves water resources sufficient to fulfill the purpose of the reservation. Although the *Winters* Doctrine was recognized in the context of Indian reservations, courts have clarified that the reasoning applies to other federal land reservations, including water uses in national forests, national parks, national monuments, and other areas. As a result, federal agencies have sometimes asserted or negotiated reserved water rights under federally authorized purposes.

Despite the resolution of the brief dispute that initially prompted this legislation, Republicans continue pushing this flawed bill, which would undermine these long-standing federal authorities. In previous Congresses, the Department of the Interior testified that H.R. 302 would severely limit federal agencies' ability to manage public lands and resources for the benefit of all Americans. If enacted, the bill would strip federal land managers of their ability to regulate water use, leaving public lands vulnerable to increased degradation. It would also interfere with the protection of national parks, wildlife refuges, and other public lands that rely on secure water supplies, while harming recreational areas, wild and scenic rivers, and cultural sites. Furthermore, even with its savings clause on the matter, H.R. 302 would jeopardize the United States' trust and treaty responsibilities toward tribes by weakening federal reserved water rights.

H.R. 302 would restrict federal agencies in their ability to protect federal reserved water rights and create considerable uncertainty and undermine the existing water rights framework by imposing sweeping, contradictory prohibitions, which will inevitably trigger significant legal disputes. Ultimately, this legislation is a poorly drafted bill that, under the guise of protecting "states' rights," would disrupt long-standing federal water rights and introduce significant legal uncertainty, harming both the environment and the people who rely on these vital resources.

JARED HUFFMAN,
Ranking Member.

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¹207 U.S. 564.