

WATER RIGHTS PROTECTION ACT OF 2017

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JULY 25, 2017.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed  
—————

Mr. BISHOP of Utah, from the Committee on Natural Resources,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2939]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2939) 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 Secretaries of the Interior and Agriculture, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 2939 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 Secretaries of the Interior and Agriculture.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 2939 upholds longstanding federal deference to State water laws by prohibiting agencies within the Departments of the Interior and Agriculture from conditioning or withholding the issuance of any permit, lease or other land use arrangement on the transfer of privately held water rights to the United States.

Each State has its own system of water laws that govern public and private water rights within its borders. Eastern States nor-

mally use riparian systems of law, under which rights to use water are tied to land adjacent to waterways, while western States' water laws are more complex. Most western States have adopted the prior appropriation doctrine, or "first in time, first in right." Under prior appropriation, water rights are obtained by diverting water for some beneficial use, which can include domestic and municipal purposes, irrigation, stock-watering, manufacturing, mining, hydro-power, aquaculture, recreation and fish and wildlife.

During the expansion and development of the western territories in the beginning of the 20th century, the federal government generally left the western States to develop their own systems of water laws with relatively little conflict or involvement, outside of large-scale water projects. By the 1920s, however, the United States began to pursue the establishment of water rights with greater frequency. Despite the federal government's general deference to State laws on matters affecting water rights, the United States could not be bound by a water rights determination in State court because the federal government was immune from State court decisions.

In 1952 the McCarran Amendment (43 U.S.C. 666) waived the federal government's immunity from State court decisions and barred the United States from objecting to the application of State laws to such proceedings. This landmark law continued the tradition of federal deference to State water laws and put in place a framework under which the federal government was treated like a private entity for purposes of seeking water rights within western States, exclusive of eminent domain authorities provided by the Fifth Amendment to the U.S. Constitution.

Despite the protections afforded to States under the McCarran Amendment, there have been recent instances where federal agencies have been accused of undermining State water laws. In 2014, the United States Forest Service (USFS) proposed a directive that was met with criticism on the grounds that it superseded State water laws and would eliminate multiple uses on and off federal lands. In proposing its draft "Directive on Groundwater Resource Management," USFS stated in a 2014 press release that it needed to "improve the Forest Service's ability to manage and analyze potential uses of National Forest System (NFS) land that could affect groundwater resources."<sup>1</sup> The proposal governed activities on 193 million acres of forests and grasslands in 42 States. Although the Forest Service Manual indicated that the proposed Groundwater Directive would not impact a State's ability to manage water, it specifically called for managing "surface and groundwater resources that were hydraulically interconnected, and considered them interconnected in all planning and evaluation activities."<sup>2</sup>

In addition, the proposal indicated that 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."<sup>3</sup> At a June 24, 2014, Water and Power Subcommittee hearing on the Groundwater Directive, Mr. Patrick Tyrrell, State Engineer for Wyoming, testified that, "[t]he

<sup>1</sup>United States Department of Agriculture: U.S. Forest Service Proposes New Management Practices for Stewardship of Water Resources, May 5, 2014 (press release).

<sup>2</sup>Forest Service Groundwater Resource Management Chapter 2560.03.03; p. 8.

<sup>3</sup>*Id.* at 9-10.

assumptions, definitions, and new permitting considerations contemplated under the Proposed Directive materially interfere with Wyoming's authority over surface and groundwater, and will negatively impact the State's water users."<sup>4</sup> Subsequently, the Western Governors Association sent a letter to USFS expressing concerns.

In February 2015, then-Forest Service Chief Tom Tidwell indicated to the Senate Energy and Natural Resources Committee that the Groundwater Directive was being temporarily shelved: "Where we are today is we've stopped . . . We're going to go back, and we're going to sit down with—primarily with the states, the state water engineers—to really sit down with them and get their ideas about how we can do this, and ideally how we can do it together."<sup>5</sup> Although the Groundwater Directive was withdrawn, some water users have expressed concerns that similar proposals could be resurrected in some form in the future.

This attempt at securing privately held water rights is not an isolated incident. In 2011, USFS issued a national interim directive (No. 2709.11–2011–3) for ski area special use permits in 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. It also required that water rights arising on USFS lands off-site be relinquished to the United States in the event that the permit expired or is terminated. The purpose for the new clause, as stated by then-Forest Service Chief Tom Tidwell during a November 15, 2011, Natural Resources Committee hearing, was to ensure that water remains at the ski areas so that ski recreation could continue at those sites. On June 20, 2014, USFS proposed an amended ski areas clause that reportedly addressed some ski area concerns (79 FR 35513). In 2015, USFS released a final directive that requires ski areas to prove that there is enough water to sustain skiing for the future rather than transferring water rights to the federal government as a condition of operating on public lands (80 FR 81508). At a May 2017, Water, Power and Oceans Subcommittee hearing, Mr. Christopher Treese, External Affairs Manager for the Colorado River Water Conservation District, testified that, "[t]he 'ski area rule' has been revised and reissued to the general satisfaction of the ski industry. However, many Western water users remain wary of federal attempts to overstep its authority with regard to water rights."<sup>6</sup>

Similar policies have been adopted by USFS and other federal land management agencies involving grazing operations through the use of grazing permits. In the spring of 2012, ranchers with livestock grazing rights on USFS lands in Utah's Tooele County were told by USFS agents to sign a "change of use" application that would allow the agency to then determine what and where the use of the livestock water would be. At an October 2013, Water and Power Subcommittee hearing, Mr. Randy Parker, Chief Executive Officer for the Utah Farm Bureau Federation, testified that, "[t]his Forest Service action called for the relinquishment of the water

<sup>4</sup>Testimony of Mr. Pat Tyrrell before the House Water and Power Subcommittee, June 24, 2014, p. 1.

<sup>5</sup>E&E News: Agency puts breaks on controversial groundwater directive, February 26, 2015.

<sup>6</sup>Testimony of Mr. Christopher Treese before the House Water, Power and Oceans Subcommittee, May 18, 2017, p.1.

right in exchange for the approving the conditional use of the grazing allotment.”<sup>7</sup> The matter was eventually resolved and characterized as a misunderstanding by regional USFS staff. Mr. Parker further testified at a May 2017, Water, Power and Oceans Subcommittee hearing that, “[r]anchers, like any American business, need certainty to make decisions. The federal land management philosophy of the U.S. Forest Service and the Bureau of Land Management and their on-the-ground decision-making dictates an uncertain future for public lands ranching.”<sup>8</sup>

H.R. 2939 provides a permanent solution to protect State water law and private property rights from future federal takings. Additionally, the bill places strict limits on future federal policies that have the potential to impact State water rights.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

This section states the short title of the bill as the “Water Rights Protection Act of 2017”.

##### *Section 2. Definitions*

This section defines key terms used throughout the Act.

##### *Section 3. Treatment of water rights*

This section prohibits the Secretary of the Interior and the Secretary of Agriculture (Secretaries) from: conditioning 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 directly to the United States; requiring any water user to apply for or acquire a water right in the name of the United States under State law as a condition for any permit or other land use or occupancy agreement; and conditioning or withholding the issuance of any permit, approval or other agreement conditioned on with changes to water diversions or groundwater withdrawals that are contrary to State water law.

##### *Section 4. Policy development*

This section requires the Secretaries to: recognize existing State authority for permitting and adjudicating water use; coordinate with States; and not assert any connection between surface and groundwater that is inconsistent with State water laws for any future rule, policy, directive, management plan, or similar federal action relating to the issuance of any permit, lease, license, easement or any other land use agreement.

##### *Section 5. Effect*

This section affirms that nothing in the Act shall adversely impact: any existing legal authority under the jurisdiction of the Secretaries; existing or future Bureau of Reclamation contracts; the Endangered Species Act of 1973; federally reserved water rights;

<sup>7</sup>Testimony of Mr. Randy Parker before the House Water and Power Subcommittee, October 10, 2013, p. 11.

<sup>8</sup>Testimony of Mr. Randy Parker before the House Water, Power and Oceans Subcommittee, May 18, 2017, p. 4.

the Federal Power Act; Indian water rights; and federally held state water rights.

COMMITTEE ACTION

H.R. 2939 was introduced on June 20, 2017, by Congressman Scott R. Tipton (R-CO). The bill was referred to the Committee on Natural Resources and in addition to the Committee on Agriculture. On May 18, 2017, the Subcommittee on Water, Power and Oceans held a hearing on a discussion draft of this bill. On June 22, 2017, the Natural Resources Committee met to consider the bill. Congresswoman Norma J. Torres (D-CA) offered an amendment designated 01; it was not adopted by a roll call vote of 15 ayes to 22 nays, as follows:

## Committee on Natural Resources

U.S. House of Representatives

115th Congress

Date: 06-27-17

Recorded Vote #: 5

Meeting on / Amendment on: FC Mark Up on 22 bills: **Torres\_01** Amendment to H.R. 2939 (Rep. Scott Tipton),  
 "Water Rights Protection Act of 2017"

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
<b>Mr. Bishop, UT, Chairman</b>		X		<b>Mr. Cook, CA</b>		X	
<i>Mr. Grijalva, AZ, Ranking Member</i>	X			<i>Mr. Soto, FL</i>	X		
<b>Mr. Young, AK, Chairman Emeritus</b>		X		<b>Mr. Westerman, AR</b>		X	
<i>Mrs. Napolitano, CA</i>				<i>Mr. Panetta, CA</i>	X		
<b>Mr. Gohmert, TX, Vice Chairman</b>				<b>Mr. Graves, LA</b>		X	
<i>Ms. Bordallo, Guam</i>				<i>Mr. McEachin, VA</i>	X		
<b>Mr. Lamborn, CO</b>		X		<b>Mr. Hice, GA</b>		X	
<i>Mr. Costa, CA</i>	X			<i>Mr. Brown, MD</i>	X		
<b>Mr. Wittman, VA</b>		X		<b>Mrs. Radewagen, AS</b>		X	
<i>Mr. Sablan, CNMI</i>				<i>Mr. Clay, MO</i>	X		
<b>Mr. McClintock, CA</b>		X		<b>Mr. LaHood, IL</b>		X	
<i>Ms. Tsongas, MA</i>	X			<b>Mr. Webster, FL</b>		X	
<b>Mr. Pearce, NM</b>		X		<b>Mr. Rouzer, NC</b>		X	
<i>Mr. Huffman, CA</i>	X			<b>Mr. Bergman, MI</b>		X	
<b>Mr. Thompson, PA</b>		X		<b>Ms. Cheney, WY</b>		X	
<i>Mr. Lowenthal, CA</i>	X			<b>Mr. Johnson, LA</b>		X	
<b>Mr. Gosar, AZ</b>		X		<b>Ms. González-Colón, PR</b>			
<i>Mr. Beyer, VA</i>	X						
<b>Mr. Labrador, ID</b>							
<i>Mrs. Torres, CA</i>	X						
<b>Mr. Tipton, CO</b>		X					
<i>Mr. Gallego, AZ</i>	X						
<b>Mr. LaMalfa, CA</b>		X					
<i>Ms. Hanabusa, HI</i>	X						
<b>Mr. Denham, CA</b>		X					
<i>Ms. Barragán, CA</i>	X			<b>TOTAL:</b>	15	22	

No other amendments were offered, and the bill was ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 24 ayes to 14 nays on June 27, 2017, as follows:

**Committee on Natural Resources**  
U.S. House of Representatives  
115th Congress

Date: 06-27-17

Recorded Vote #: 6

Meeting on / Amendment on: FC Mark Up on 22 bills: **On Favorably Reporting H.R. 2939 (Rep. Scott Tipton), "Water Rights Protection Act of 2017"**

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
<b>Mr. Bishop, UT, Chairman</b>	X			<b>Mr. Cook, CA</b>	X		
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mr. Soto, FL</i>		X	
<b>Mr. Young, AK, Chairman Emeritus</b>	X			<b>Mr. Westerman, AR</b>	X		
<i>Mrs. Napolitano, CA</i>				<i>Mr. Panetta, CA</i>		X	
<b>Mr. Gohmert, TX, Vice Chairman</b>	X			<b>Mr. Graves, LA</b>	X		
<i>Ms. Bordallo, Guam</i>				<i>Mr. McEachin, VA</i>		X	
<b>Mr. Lamborn, CO</b>	X			<b>Mr. Hice, GA</b>	X		
<i>Mr. Costa, CA</i>	X			<i>Mr. Brown, MD</i>		X	
<b>Mr. Wittman, VA</b>	X			<b>Mrs. Radewagen, AS</b>	X		
<i>Mr. Sablan, CNMI</i>				<i>Mr. Clay, MO</i>		X	
<b>Mr. McClintock, CA</b>	X			<b>Mr. LaHood, IL</b>	X		
<i>Ms. Tsongas, MA</i>		X		<b>Mr. Webster, FL</b>	X		
<b>Mr. Pearce, NM</b>	X			<b>Mr. Rouzer, NC</b>	X		
<i>Mr. Huffman, CA</i>		X		<b>Mr. Bergman, MI</b>	X		
<b>Mr. Thompson, PA</b>	X			<b>Ms. Cheney, WY</b>	X		
<i>Mr. Lowenthal, CA</i>		X		<b>Mr. Johnson, LA</b>	X		
<b>Mr. Gosar, AZ</b>	X			<b>Ms. González-Colón, PR</b>			
<i>Mr. Beyer, VA</i>		X					
<b>Mr. Labrador, ID</b>							
<i>Mrs. Torres, CA</i>		X					
<b>Mr. Tipton, CO</b>	X						
<i>Mr. Gallego, AZ</i>		X					
<b>Mr. LaMalfa, CA</b>	X						
<i>Ms. Hanabusa, HI</i>		X					
<b>Mr. Denham, CA</b>	X						
<i>Ms. Barragán, CA</i>		X		<b>TOTAL:</b>	24	14	



## 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

1. Cost of Legislation and the Congressional Budget Act of 1974. 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 enclosed cost estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 14, 2017.*

Hon. ROB BISHOP,  
*Chairman, Committee on Natural Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2939, the Water Rights Protection Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff LaFave.

Sincerely,

MARK P. HADLEY  
(For Keith Hall, Director).

Enclosure.

*H.R. 2939—Water Rights Protection Act of 2017*

H.R. 2939 would prevent federal agencies from requiring certain entities to relinquish their water rights to the United States in order to use public lands. The bill also would require the affected agencies to consult with states when developing policy related to land use agreements.

Because CBO expects that implementing the bill would not affect the number of users of public lands or the amount of receipts received by federal agencies for the use of those lands, we estimate that implementing the bill would have no effect on the federal budget.

Enacting H.R. 2939 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 2939 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2939 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandate Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

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 Secretaries of the Interior and Agriculture.

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.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

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.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

ROB BISHOP OF UTAH  
CHAIRMAN

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

July 10, 2017

The Honorable K. Michael Conaway  
Chairman  
Committee on Agriculture  
1301 Longworth HOB  
Washington, DC 20515

Dear Mr. Chairman:

On June 27, 2017, the Committee on Natural Resources ordered reported H.R. 2939, the Water Rights Protection Act of 2017. The bill was referred primarily to the Committee on Natural Resources, with an additional referral to the Committee on Agriculture.

I ask that you allow the Committee on Agriculture to be discharged from further consideration of the bill so that it may be scheduled by the Majority Leader. This discharge in no way affects your jurisdiction over the subject matter of the bill, and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on Agriculture represented on the conference committee. Finally, I would be pleased to include this letter and any response in the bill report filed by the Committee on Natural Resources to memorialize our understanding.

Thank you for your consideration of my request and for the extraordinary cooperation shown by you and your staff over matters of shared jurisdiction. I look forward to further opportunities to work with you this Congress.

Sincerely,



Rob Bishop  
Chairman  
Committee on Natural Resources

cc: The Honorable Paul D. Ryan, Speaker, U.S. House of Representatives  
The Honorable Kevin McCarthy, Majority Leader, U.S. House of Representatives  
The Honorable Raul M. Grijalva, Ranking Member, Committee on Natural Resources

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**U.S. House of Representatives**  
**Committee on Agriculture**  
 Room 1301, Longworth House Office Building  
 Washington, DC 20515-6001

(202) 225-2171

July 10, 2017

COLLIN C. PETERSON, MINNESOTA  
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MATTHEW S. SCHERTZ  
 STAFF DIRECTOR  
 ANNE SIMMONS  
 MINORITY STAFF DIRECTOR

The Honorable Rob Bishop  
 Chairman  
 Committee on Natural Resources  
 1324 Longworth HOB  
 Washington, D.C. 20515

RCVD:  
 JUL 10 2017

Dear Mr. Chairman:

Thank you for the opportunity to review H.R. 2939, the Water Rights Protection Act of 2017. As you are aware, the bill was primarily referred to the Committee on Natural Resources, while the Agriculture Committee received an additional referral.

I recognize and appreciate your desire to bring this legislation before the House in an expeditious manner and, accordingly, I agree to discharge H.R. 2939 from further consideration by the Committee on Agriculture. I do so with the understanding that by discharging the bill, the Committee on Agriculture does not waive any future jurisdictional claim on this or similar matters. Further, the Committee on Agriculture reserves the right to seek the appointment of conferees, if it should become necessary.

I ask that you insert a copy of our exchange of letters into the *Congressional Record* during consideration of this measure on the House floor.

Thank you for your courtesy in this matter and I look forward to continued cooperation between our respective committees.

Sincerely,

  
 K. Michael Conaway  
 Chairman

cc: The Honorable Paul D. Ryan, Speaker  
 The Honorable Collin C. Peterson  
 The Honorable Raul Grijalva  
 The Honorable Thomas J. Wickham, Parliamentarian

## DISSENTING VIEWS

H.R. 2939 is nearly identical to the highly controversial H.R. 3189 from the 113th Congress, which passed the House on March 13, 2014 over the opposition of the Obama administration<sup>1</sup> and nearly every Democratic House Member.<sup>2</sup> If enacted, the legislation will undermine longstanding authorities of federal agencies to protect our nation's natural resources and the water rights of Indian tribes. Given these harmful impacts, we oppose H.R. 2939 as written.

The previous version of the Water Rights Protection Act was introduced to address a narrow water rights dispute between the U.S. Forest Service and the National Ski Areas Association. In 2011, the Forest Service issued an *Interim* Directive relating to ski area operators on Forest Service-managed land. The Interim Directive sought to require ski areas operating on public land to transfer their water rights to the federal government. The Forest Service was concerned that the value of these water rights could lead ski resort companies to sell the water, leaving the Forest Service to manage the land with no water available to any future resort owner or other user.

The Interim directive was opposed by the ski areas, and in 2013 the Forest Service announced a revision to their water rights position, saying that they could meet their land management objectives without requiring the transfer of water rights. The Forest Service's Final Directive simply required ski areas to provide assurances that sufficient water rights would remain with the ski area permit for snowmaking and other essential operations, even if the ski resort is sold. The new directive has been favorably received by the ski industry, including the National Ski Areas Association.

Even though the dispute this bill sought to address is now moot, the legislation has been reintroduced during the 115th Congress. Like the previous version of this bill, H.R. 2939 is written so broadly it would apply to all actions that require a permit on federal lands. If enacted, H.R. 2939 would strip longstanding legal authorities of federal agencies to place conditions on the use of public lands and waters if such conditions are inconsistent in any way with a water right recognized by a state. Such a change in the law will, in many cases, eliminate federal protections for public lands and protections for other public resources such as fish and wildlife.

If enacted, H.R. 2939 will also threaten the federal government's ability to assert and protect federal reserved water rights for Indian tribes. Because the federal government holds the water rights

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<sup>1</sup>Statement of Administration Policy on H.R. 3189, Executive Office of the President, March 12, 2014. [https://obamawhitehouse.archives.gov/sites/default/filestombilegislativ/sap/113/saphr3189r\\_20140312.pdf](https://obamawhitehouse.archives.gov/sites/default/filestombilegislativ/sap/113/saphr3189r_20140312.pdf).

<sup>2</sup>Recorded vote on H.R. 3189, Office of the Clerk of the U.S. House of Representatives. <http://clerk.house.gov/records/2014/ro11132.xml>.

of Indian tribes in trust, H.R. 2939's restrictions on the federal government's authority to enforce and protect its federal water rights, as a practical matter, will also limit the ability of tribes to assert and protect their water rights as well.

During the Committee markup of H.R. 2939, to highlight one of the many flaws in the bill, the Ranking Member of the Subcommittee on Indian, Insular and Alaska Native Affairs, Rep. Norma Torres, offered an amendment to protect the water rights of several Indian tribes. Committee Republicans rejected the amendment.

The Committee has received numerous letters in opposition to the current and previous version of the Water Rights Protection Act, including from nearly 70 conservation groups such as: Trout Unlimited, American Rivers, the National Audubon Society, the National Parks Conservation Association, American Whitewater, the Sierra Club, and the Chesapeake Bay Foundation.

In testimony before Congress, legal analysts and the Obama administration also raised concerns that the prohibitions contained in the bill are overly broad and internally inconsistent, which would only introduce confusion into the current system of water rights and lead to more litigation.<sup>3</sup> Attorneys representing Indian tribes have also warned the Committee that the bill poses a significant threat to Indian water rights and threatens Indian water rights settlements.

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<sup>3</sup>Statement of Adam Schempp, Environmental Law Institute, before the Senate Committee on Energy and Natural Resources, "S. 982, The Water Rights Protection Act of 2015," June 18, 2015. [https://www.energy.senate.gov/publiindex.cfm/files/serve?File\\_id=F7EF0048-BF49-49DA-ACBF-73B137441A60](https://www.energy.senate.gov/publiindex.cfm/files/serve?File_id=F7EF0048-BF49-49DA-ACBF-73B137441A60) Statement of Dionne Thompson, U.S. Bureau of Reclamation, Before the Senate Committee on Energy and Natural Resources, "S. 982, The Water Rights Protection Act of 2015," June 18, 2015. [https://www.energy.senate.gov/publiindex.cfm/files/serve?File\\_id=6ACO2E59-6350-48FC-8106-7EB6CC67530A](https://www.energy.senate.gov/publiindex.cfm/files/serve?File_id=6ACO2E59-6350-48FC-8106-7EB6CC67530A).

In sum, H.R. 2939 is an unpopular, ill-conceived bill that would undermine the ability of federal agencies to properly manage public resources and protect Indian water rights. For these reasons, we oppose H.R. 2939 as reported.

RAÚL M. GRIJALVA,  
*Ranking Member,  
House Natural Resources  
Committee.*

JARED HUFFMAN,  
*Ranking Member,  
Subcommittee on Water,  
Power and Oceans.*

GRACE F. NAPOLITANO,  
*Member of Congress.*

COLLEEN HANABUSA,  
*Ranking Member,  
Subcommittee on Federal  
Lands.*

NANETTE DIAZ BARRAGÁN,  
*Member of Congress.*

DARREN SOTO,  
*Member of Congress.*

A. DONALD MCEACHIN,  
*Ranking Member,  
Subcommittee on Oversight  
and Investigations.*

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