

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.**

**S. 1570** *modified First Degree*

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

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Ms. MURKOWSKI (for herself and  
Mr. MANCHIN)

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Aquifer Recharge  
5 Flexibility Act".

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) BUREAU.—The term "Bureau" means the  
9 Bureau of Reclamation.

10 (2) COMMISSIONER.—The term "Commis-  
11 sioner" means the Commissioner of Reclamation.

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

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

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

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

11           (A) stored in 1 or more aquifers; and

12           (B)(i) available for use within the author-  
13 ized service area of a Reclamation project; or

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

16           (5) RECLAMATION FACILITY.—The term “Rec-  
17 lamation facility” means each of the infrastructure  
18 assets that are owned by the Bureau at a Reclama-  
19 tion project.

20           (6) RECLAMATION PROJECT.—The term “Rec-  
21 lamation project” means any reclamation or irriga-  
22 tion project, including incidental features thereof,  
23 authorized by Federal reclamation law or the Act of  
24 August 11, 1939 (commonly known as the “Water  
25 Conservation and Utilization Act”) (53 Stat. 1418,

1 chapter 717; 16 U.S.C. 590y et seq.), or constructed  
2 by the United States pursuant to such law, or in  
3 connection with which there is a repayment or water  
4 service contract executed by the United States pur-  
5 suant to such law, or any project constructed by the  
6 Secretary through the Bureau for the reclamation of  
7 land.

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

10 **SEC. 3. FLEXIBILITY TO ALLOW GREATER AQUIFER RE-**  
11 **CHARGE IN WESTERN STATES.**

12 (a) USE OF RECLAMATION FACILITIES.—

13 (1) IN GENERAL.—The Commissioner may  
14 allow the use of excess capacity in Reclamation fa-  
15 cilities for aquifer recharge of non-Reclamation  
16 project water, subject to applicable rates, charges,  
17 and public participation requirements, on the condi-  
18 tion that—

19 (A) the use—

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

22 (I) any power service or water  
23 contract for the Reclamation project;  
24 or

1 (II) any obligations for fish, wild-  
2 life, or water quality protection appli-  
3 cable to the Reclamation project;

4 (ii) shall be consistent with water  
5 quality guidelines for the Reclamation  
6 project;

7 (iii) shall comply with all applicable—

8 (I) Federal laws; and

9 (II) policies of the Bureau; and

10 (iv) shall comply with all applicable  
11 State laws and policies; and

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

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

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

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

24 (b) AQUIFER RECHARGE ON ELIGIBLE LAND.—

1           (1) IN GENERAL.—Subject to paragraphs (3)  
2 and (4), the Secretary may contract with a holder of  
3 a water service or repayment contract for a Rec-  
4 lamation project to allow the contractor, in accord-  
5 ance with applicable State laws and policies—

6           (A) to directly use water available under  
7 the contract for aquifer recharge on eligible  
8 land; or

9           (B) to enter into an agreement with an in-  
10 dividual or entity to transfer water available  
11 under the contract for aquifer recharge on eligi-  
12 ble land.

13           (2) AUTHORIZED PROJECT USE.—The use of a  
14 Reclamation facility for aquifer recharge under para-  
15 graph (1) shall be considered an authorized use for  
16 the Reclamation project if requested by a holder of  
17 a water service or repayment contract for the Rec-  
18 lamation facility.

19           (3) MODIFICATIONS TO CONTRACTS.—The Sec-  
20 retary may contract with a holder of a water service  
21 or repayment contract for a Reclamation project  
22 under paragraph (1) if the Secretary determines  
23 that a new contract or contract amendment de-  
24 scribed in that paragraph is—

1 (A) necessary to allow for the use of water  
2 available under the contract for aquifer re-  
3 charge under this subsection;

4 (B) in the best interest of the Reclamation  
5 project and the United States; and

6 (C) approved by the contractor that is re-  
7 sponsible for repaying the cost of construction,  
8 operations, and maintenance of the facility that  
9 delivers the water under the contract.

10 (4) REQUIREMENTS.—The use of Reclamation  
11 facilities for the use or transfer of water for aquifer  
12 recharge under this subsection shall be subject to  
13 the requirements that—

14 (A) the use or transfer shall not be imple-  
15 mented in a manner that materially impacts  
16 any power service or water contract for the  
17 Reclamation project; and

18 (B) before the use or transfer, the Sec-  
19 retary shall determine that the use or trans-  
20 fer—

21 (i) results in a net water storage ben-  
22 efit for the Reclamation project; or

23 (ii) contributes to the recharge of an  
24 aquifer on eligible land; and

1                   (C) the use or transfer complies with all  
2                   applicable—

- 3                   (i) Federal laws and policies; and  
4                   (ii) interstate water compacts.

5           (c) CONVEYANCE FOR AQUIFER RECHARGE PUR-  
6 POSES.—The holder of a right-of-way, easement, permit,  
7 or other authorization to transport water across public  
8 land administered by the Bureau of Land Management  
9 may transport water for aquifer recharge purposes with-  
10 out requiring additional authorization from the Secretary  
11 where the use does not expand or modify the operation  
12 of the right-of-way, easement, permit, or other authoriza-  
13 tion across public land.

14           (d) EFFECT.—Nothing in this Act creates, impairs,  
15 alters, or supersedes a Federal or State water right.

16           (e) EXEMPTION.—This Act shall not apply to the  
17 State of California.