

(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. 331

To amend the Aquifer Recharge Flexibility Act to clarify a provision relating to conveyances for aquifer recharge purposes.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To amend the Aquifer Recharge Flexibility Act to clarify a provision relating to conveyances for aquifer recharge 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. CONVEYANCE FOR AQUIFER RECHARGE PUR-**
4 **POSES.**

5 (a) IN GENERAL.—Subsection (c)(3) of the Aquifer
6 Recharge Flexibility Act (43 U.S.C. 390g-9) is amend-
7 ed—

1 (1) by striking “The holder” and inserting the
2 following:

3 “(A) IN GENERAL.—The holder”;

4 (2) in subparagraph (A) (as so designated), by
5 striking “may transport water for aquifer recharge
6 purposes without requiring additional authorization
7 from the Secretary where the use does not expand
8 or modify the operation” and inserting “may, acting
9 for the holder or on behalf of a State, political sub-
10 division of a State, Indian Tribe, or public entity
11 and subject to subparagraphs (B) and (C), use the
12 existing right-of-way, easement, permit, or other au-
13 thorization for the purpose of aquifer recharge and
14 the transport and use of water rights for aquifer re-
15 charge without requiring additional authorization
16 from the Secretary, which use shall not be consid-
17 ered an expansion, modification, major Federal ac-
18 tion, or substantial deviation”; and

19 (3) by adding at the end the following:

20 “(B) NOTICE REQUIRED.—

21 “(i) IN GENERAL.—Not less than 30
22 days before using an existing right-of-way,
23 easement, permit, or other authorization
24 for the purpose of aquifer recharge under
25 subparagraph (A), the holder of the right-

1 of-way, easement, permit, or other author-
2 ization shall submit to the Bureau of Land
3 Management notice of the intended use, in
4 accordance with clause (ii).

5 “(ii) REQUIREMENTS.—A notice sub-
6 mitted under clause (i) shall—

7 “(I) identify the State, political
8 subdivision of the State, Indian Tribe,
9 or public entity intending to use the
10 existing right-of-way, easement, per-
11 mit, or other authorization for the
12 purpose of aquifer recharge;

13 “(II) identify the existing right-
14 of-way, easement, permit, other au-
15 thorization, or recognized authorized
16 use for ditches and canals constructed
17 on public land before or on October
18 21, 1976, under the authority of sec-
19 tions 2339 and 2340 of the Revised
20 Statutes (43 U.S.C. 661) intended to
21 be used;

22 “(III) provide details on the in-
23 tended use and scope of use for the
24 purpose of aquifer recharge of the ex-

1 isting right-of-way, easement, permit,
2 or other authorization; and

3 “(IV) provide a copy of the
4 agreement between the State, political
5 subdivision of the State, Indian Tribe,
6 or public entity and the holder of the
7 right-of-way, easement, permit, or
8 other authorization to use the existing
9 right-of-way, easement, permit, or
10 other authorization for the purpose of
11 aquifer recharge.

12 “(C) EXEMPTION FROM PAYMENT OF AD-
13 DITIONAL RENT.—

14 “(i) IN GENERAL.—Except as pro-
15 vided in clause (ii), any use of an existing
16 right-of-way, easement, permit, or other
17 authorization for the purpose of aquifer re-
18 charge under subparagraph (A) shall be
19 exempt from the payment of additional
20 rent to the Bureau of Land Management.

21 “(ii) FOR-PROFIT USES AND ENTI-
22 TIES.—Clause (i) shall not apply to—

23 “(I) any for-profit uses of aquifer
24 recharge; or

25 “(II) any for-profit entities.”.

1 (b) EFFECT.—Subsection (c)(4) of the Aquifer Re-
2 charge Flexibility Act (43 U.S.C. 390g–9) is amended—

3 (1) by striking “Act creates” and inserting
4 “section—

5 “(A) creates”;

6 (2) in subparagraph (A) (as so designated), by
7 striking the period at the end and inserting a semi-
8 colon; and

9 (3) by adding at the end of the following:

10 “(B) waives the obligation of the holder of
11 a right-of-way, easement, permit, or other au-
12 thorization described in paragraph (3)(A) to
13 comply with—

14 “(i) the Federal Water Pollution Con-
15 trol Act (33 U.S.C. 1251 et seq.);

16 “(ii) the Endangered Species Act of
17 1973 (16 U.S.C. 1531 et seq.); or

18 “(iii) the Wild and Scenic Rivers Act
19 (16 U.S.C. 1271 et seq.); or

20 “(C) provides authority to construct, mod-
21 ify, or expand any existing infrastructure cov-
22 ered under subsection (c)(3).”.

23 (c) TECHNICAL AMENDMENTS.—The Aquifer Re-
24 charge Flexibility Act (43 U.S.C. 390g–9) is amended in

- 1 each of subsections (a) and (c)(5) by striking “Act” each
- 2 place it appears and inserting “section”.