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(Original Signature of Member)

116TH CONGRESS  
1ST SESSION

# H. R. \_\_\_\_\_

To protect private property rights and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. NORMAN introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

## A BILL

To protect private property rights 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 “Property Rights Pro-  
5 tection Act of 2019”.

6 **SEC. 2. WATER RIGHTS.**

7 (a) DEFINITIONS.—In this section:

8 (1) SECRETARY.—The term “Secretary”  
9 means, as applicable—

10 (A) the Secretary of Agriculture; or

1 (B) the Secretary of the Interior.

2 (2) WATER RIGHT.—The term “water right”  
3 means any surface, groundwater, or storage use  
4 filed, permitted, certificated, confirmed, decreed, ad-  
5 judicated, or otherwise recognized by a judicial pro-  
6 ceeding or by the State in which the user acquires  
7 possession of the water or puts it to beneficial use.  
8 Such term shall include water rights for federally  
9 recognized Indian Tribes.

10 (b) TREATMENT OF WATER RIGHTS.—The Secretary  
11 shall not—

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

22 (2) require any water user (including any feder-  
23 ally recognized Indian Tribe) to apply for or acquire  
24 a water right in the name of the United States  
25 under State law as a condition of the issuance, re-

1       newal, amendment, or extension of any permit, ap-  
2       proval, license, lease, allotment, easement, right-of-  
3       way, or other land use or occupancy agreement.

4       (c) POLICY DEVELOPMENT.—In developing any rule,  
5       policy, directive, management plan, or similar Federal ac-  
6       tion relating to the issuance, renewal, amendment, or ex-  
7       tension of any permit, approval, license, lease, allotment,  
8       easement, right-of-way, or other land use or occupancy  
9       agreement, the Secretary—

10           (1) shall—

11                   (A) recognize the longstanding authority of  
12                   the States relating to evaluating, protecting, al-  
13                   locating, regulating, permitting, and adjudi-  
14                   cating water use; and

15                   (B) coordinate with the States to ensure  
16                   that any rule, policy, directive, management  
17                   plan, or similar Federal action is consistent  
18                   with, and imposes no greater restriction or reg-  
19                   ulatory requirement, than applicable State  
20                   water law; and

21           (2) shall not—

22                   (A) adversely affect—

23                           (i) the authority of a State in—

24                                   (I) permitting the beneficial use  
25                                   of water; or

- 1 (II) adjudicating water rights;
- 2 (ii) any definition established by a
- 3 State with respect to the term “beneficial
- 4 use”, “priority of water rights”, or “terms
- 5 of use”; or
- 6 (iii) any other right or obligation of a
- 7 State established under State law; or
- 8 (B) assert any connection between surface
- 9 and groundwater that is inconsistent with such
- 10 a connection recognized by State water laws.

11 (d) EFFECT.—

12 (1) EXISTING AUTHORITY.—Nothing in this

13 section limits or expands any existing legally recog-

14 nized authority of the Secretary to issue, grant, or

15 condition any permit, approval, license, lease, allot-

16 ment, easement, right-of-way, or other land use or

17 occupancy agreement on Federal land that is subject

18 to the jurisdiction of the Secretary.

19 (2) RECLAMATION CONTRACTS.—Nothing in

20 this section in any way interferes with any existing

21 or future Bureau of Reclamation contract entered

22 into pursuant to Federal reclamation law (the Act of

23 June 17, 1902 (32 Stat. 388, chapter 1093), and

24 Acts supplemental to and amendatory of that Act).

1           (3) ENDANGERED SPECIES ACT.—Nothing in  
2 this section affects the implementation of the En-  
3 dangered Species Act of 1973 (16 U.S.C. 1531 et  
4 seq.).

5           (4) FEDERAL RESERVED WATER RIGHTS.—  
6 Nothing in this section limits or expands any exist-  
7 ing reserved water rights of the Federal Government  
8 on land administered by the Secretary.

9           (5) FEDERAL POWER ACT.—Nothing in this  
10 section limits or expands authorities pursuant to sec-  
11 tion 4(e), 10(j), or 18 of the Federal Power Act (16  
12 U.S.C. 797(e), 803(j), 811).

13           (6) INDIAN WATER RIGHTS.—Nothing in this  
14 section limits or expands any existing reserved water  
15 right or treaty right of any federally recognized In-  
16 dian Tribe.

17           (7) FEDERALLY HELD STATE WATER  
18 RIGHTS.—Nothing in this section limits the ability of  
19 the Secretary, through applicable State procedures,  
20 to acquire, use, enforce, or protect a State water  
21 right owned by the United States.

22 **SEC. 3. NON-FEDERALLY OWNED PROPERTY.**

23           (a) IN GENERAL.—After the date of enactment of  
24 this Act, non-federally owned land and water may not be  
25 declared as critical habitat without the express written

1 consent of the owners of such non-federally owned prop-  
2 erty unless the Secretary determines there is a risk of ex-  
3 tinction of a threatened or endangered species without  
4 such designation.

5 (b) COMPENSATION.—Except as provided in sub-  
6 section (c)(2), not later than 180 days after the date on  
7 which an agency action takes place, the Secretary shall  
8 pay an owner or lessee an amount equal to 150 percent  
9 of the fair market value of the real property determined  
10 in accordance with subsection (c)(1).

11 (c) DETERMINATION OF FAIR MARKET VALUE.—

12 (1) IN GENERAL.—The fair market value de-  
13 scribed in subsection (b) shall be determined by 2 li-  
14 censed independent appraisers of whom—

15 (A) 1 shall be chosen by the Secretary; and

16 (B) 1 shall be chosen by the owner or les-  
17 see.

18 (2) FAILURE TO AGREE ON FAIR MARKET  
19 VALUE.—

20 (A) IN GENERAL.—If the appraisers cho-  
21 sen under subsection (a) fail to agree on the  
22 same fair market value, the Secretary and the  
23 owner shall jointly select an additional licensed  
24 independent appraiser to determine the fair  
25 market value.

1 (B) EXTENSION OF TIME TO MAKE DETER-  
2 MINATION.—The licensed independent appraiser  
3 described in subsection (a) shall determine the  
4 fair market value not later than 270 days after  
5 the date on which the agency action takes  
6 place.

7 (3) COSTS.—The Secretary shall be responsible  
8 for all costs relating to the determination of fair  
9 market value made under this section.

10 **SEC. 4. OBTAINING PERMISSION FOR ACCESS TO PRIVATE**  
11 **LANDS.**

12 The Secretary of the Interior shall, not later than 180  
13 days after the date of enactment of this Act, issue a final  
14 rule requiring the United States Fish and Wildlife Service  
15 to follow rules substantially similar to the requirements  
16 in the United States Geological Survey Survey Manual  
17 Chapter 500.11, as in effect on August 22, 2008.

18 **SEC. 5. DEFENSE OF LIFE OR PROPERTY.**

19 (a) IN GENERAL.—Notwithstanding any other provi-  
20 sion of law, it shall not be a violation of law to take any  
21 animal if such animal poses a recurring threat to life and  
22 property.

23 (b) DEFINITIONS.—In this section, the term take has  
24 the meaning given such term in section 3 of the Endan-  
25 gered Species Act of 1973 (16 U.S.C. 1532).