116TH CONGRESS
1ST SESSION

H. R. _____

To protect private property rights and for other purposes.

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
(B) the Secretary of the Interior.

(2) WATER RIGHT.—The term “water right” means any surface, groundwater, or 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 it to beneficial use. Such term shall include water rights for federally recognized Indian Tribes.

(b) 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; or

(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, re-
newal, amendment, or extension of any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement.

(c) 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, approval, 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) adversely affect—

(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; or

(B) assert any connection between surface and groundwater that is inconsistent with such a connection recognized by State water laws.

(d) Effect.—

(1) Existing Authority.—Nothing in this section limits or expands any existing legally recognized authority of the Secretary to issue, grant, or condition any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement on Federal land that is subject to the jurisdiction of the Secretary.

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

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

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

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

(7) FEDERALLY HELD STATE WATER RIGHTS.—Nothing in this section 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.

SEC. 3. NON-FEDERALLY OWNED PROPERTY.

(a) IN GENERAL.—After the date of enactment of this Act, non-federally owned land and water may not be declared as critical habitat without the express written
consent of the owners of such non-federally owned property unless the Secretary determines there is a risk of extinction of a threatened or endangered species without such designation.

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

(c) DETERMINATION OF FAIR MARKET VALUE.—

(1) IN GENERAL.—The fair market value described in subsection (b) shall be determined by 2 licensed independent appraisers of whom—

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

(B) 1 shall be chosen by the owner or lessee.

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

(A) IN GENERAL.—If the appraisers chosen under subsection (a) fail to agree on the same fair market value, the Secretary and the owner shall jointly select an additional licensed independent appraiser to determine the fair market value.
(B) Extension of time to make determination.—The licensed independent appraiser described in subsection (a) shall determine the fair market value not later than 270 days after the date on which the agency action takes place.

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

SEC. 4. OBTAINING PERMISSION FOR ACCESS TO PRIVATE LANDS.

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

SEC. 5. DEFENSE OF LIFE OR PROPERTY.

(a) In General.—Notwithstanding any other provision of law, it shall not be a violation of law to take any animal if such animal poses a recurring threat to life and property.

(b) Definitions.—In this section, the term take has the meaning given such term in section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532).