

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.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 13, 2025

Mr. FULCHER (for himself and Mr. SIMPSON) introduced the following bill;  
which was referred to the Committee on Natural Resources

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## 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—

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

10 “(A) IN GENERAL.—The holder”;

(2) in subparagraph (A) (as so designated), by striking “may transport water for aquifer recharge purposes without requiring additional authorization from the Secretary where the use does not expand or modify the operation” and inserting “may, acting for the holder or on behalf of a State, political subdivision of a State, Indian Tribe, or public entity and subject to subparagraphs (B) and (C), use the existing right-of-way, easement, permit, or other authorization for the purpose of aquifer recharge and the transport and use of water rights for aquifer recharge without requiring additional authorization from the Secretary, which use shall not be considered an expansion, modification, major Federal action, or substantial deviation”; and

(3) by adding at the end the following:

“(B) NOTICE REQUIRED.—

“(i) IN GENERAL.—Not less than 30 days before using an existing right-of-way, easement, permit, or other authorization for the purpose of aquifer recharge under subparagraph (A), the holder of the right-of-way, easement, permit, or other authorization shall submit to the Bureau of Land

1 Management notice of the intended use, in  
2 accordance with clause (ii).

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

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

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

20 “(III) provide details on the in-  
21 tended use and scope of use for the  
22 purpose of aquifer recharge of the ex-  
23 isting right-of-way, easement, permit,  
24 or other authorization; and

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

10 “(C) EXEMPTION FROM PAYMENT OF AD-  
 11 DITIONAL RENT.—

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

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

21 “(I) any for-profit uses of aquifer  
 22 recharge; or

23 “(II) any for-profit entities.”.

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

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

3                   “(A) creates”;

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

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

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

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

14                   “(ii) the Endangered Species Act of  
15          1973 (16 U.S.C. 1531 et seq.); or

16                   “(iii) the Wild and Scenic Rivers Act  
17          (16 U.S.C. 1271 et seq.); or

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

21          (c) TECHNICAL AMENDMENTS.—The Aquifer Re-  
22          charge Flexibility Act (43 U.S.C. 390g–9) is amended in  
23          each of subsections (a) and (c)(5) by striking “Act” each  
24          place it appears and inserting “section”.

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