

116TH CONGRESS
2D SESSION

H. R. 5601

To protect private property rights, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 14, 2020

Mr. NORMAN (for himself, Mr. GOSAR, Mr. CRAWFORD, Mr. GIANFORTE, Ms. CHENEY, Mr. NEWHOUSE, and Mr. MCCLINTOCK) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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 2020”.

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.

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

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