

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—118th Cong., 2d Sess.

S. 4999

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

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

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”;

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

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

17 “(B) NOTICE REQUIRED.—

18 “(i) IN GENERAL.—Not less than 30
19 days before using an existing right-of-way,
20 easement, permit, or other authorization
21 for the purpose of aquifer recharge under
22 subparagraph (A), the holder of the right-
23 of-way, easement, permit, or other author-
24 ization 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 (e)(5) by striking “Act” each
24 place it appears and inserting “section”.