

.....
(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Federal Water Pollution Control Act with respect to judicial review of the issuance of a permit for the discharge of dredged or fill material, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. BURLISON introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Federal Water Pollution Control Act with respect to judicial review of the issuance of a permit for the discharge of dredged or fill material, 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 “Judicial Review
5 Timeline Clarity Act”.

1 **SEC. 2. JUDICIAL REVIEW TIMELINE CLARITY.**

2 Section 404 of the Federal Water Pollution Control
3 Act (33 U.S.C. 1344) is amended—

4 (1) by redesignating subsection (t) as sub-
5 section (u);

6 (2) in subsection (u), as so redesignated, by
7 striking “Nothing in the section” and inserting
8 “SAVINGS PROVISION.—Nothing in this section”;
9 and

10 (3) by inserting after subsection (s) the fol-
11 lowing:

12 “(t) JUDICIAL REVIEW.—

13 “(1) STATUTE OF LIMITATIONS.—Notwith-
14 standing any applicable provision of law relating to
15 statutes of limitations—

16 “(A) an action seeking judicial review of
17 an individual permit or general permit issued
18 under this section shall be filed not later than
19 the date that is 60 days after the date on which
20 the permit was issued; and

21 “(B) an action seeking judicial review of a
22 verification that an activity involving a dis-
23 charge of dredged or fill material is authorized
24 by a general permit issued under this section
25 shall be filed not later than the date that is 60

1 days after the date on which such verification
2 was issued.

3 “(2) LIMITATION ON COMMENCEMENT OF CER-
4 TAIN ACTIONS.—Notwithstanding any other provi-
5 sion of law, no action described in paragraph (1)
6 may be commenced unless the action—

7 “(A) is filed by a party that submitted a
8 comment—

9 “(i) during the public comment period
10 for the administrative proceedings related
11 to the applicable action described in such
12 paragraph; and

13 “(ii) which was sufficiently detailed to
14 put the Secretary or the State, as applica-
15 ble, on notice of the issue upon which the
16 party seeks judicial review; and

17 “(B) is related to such comment.

18 “(3) REMEDY.—If a court determines that the
19 Secretary or the State, as applicable, did not comply
20 with the requirements of this section in issuing an
21 individual or general permit under this section, or in
22 verifying that an activity involving a discharge of
23 dredged or fill material is authorized by a general
24 permit issued under this section, as applicable—

1 “(A) the court shall remand the matter to
2 the Secretary or the State, as applicable, for
3 further proceedings consistent with the deter-
4 mination of the court;

5 “(B) with respect to a determination re-
6 garding the issuance of an individual or general
7 permit under this section, the court may not va-
8 cate, revoke, enjoin, or otherwise limit the per-
9 mit, unless the court finds that activities au-
10 thorized under the permit would present an im-
11 minent and substantial danger to human health
12 or the environment for which there is no other
13 equitable remedy available under the law; and

14 “(C) with respect to a determination re-
15 garding a verification that an activity involving
16 a discharge of dredged or fill material is au-
17 thorized by a general permit issued under this
18 section, the court may not enjoin or otherwise
19 limit the discharge unless the court finds that
20 the activity would present an imminent and
21 substantial danger to human health or the envi-
22 ronment for which there is no other equitable
23 remedy available under the law.

24 “(4) TIMELINE TO ACT ON COURT ORDER.—If
25 a court remands a matter under paragraph (2), the

1 court shall set and enforce a reasonable schedule
2 and deadline, which may not exceed 180 days from
3 the date on which the court remands such matter,
4 except as otherwise required by law, for the Sec-
5 retary or the State, as applicable, to take such ac-
6 tions as the court may order.”.