

Congress of the United States
Washington, DC 20515

March 30, 2017

The Honorable Ken Calvert
Chairman
Committee on Appropriations
Subcommittee on Interior,
Environment and Related Agencies
U.S. House of Representatives
2007 Rayburn HOB
Washington, D.C. 20515

The Honorable Betty McCollum
Ranking Member
Committee on Appropriations
Subcommittee on Interior
Environment, and Related Agencies
U.S. House of Representatives
1016 Longworth HOB
Washington, D.C. 20515

Dear Chairman Calvert and Ranking Member McCollum:

In recent years the federal government has repeatedly attempted to circumvent long-established state water law in order to hijack water rights. These efforts constitute a gross federal overreach and a violation of private property rights. On multiple fronts, the U.S. Forest Service (USFS) and other federal land management agencies have attempted to ignore state law and take private water rights, despite objections from elected officials, business owners, and private property advocates.

The same nefarious tactics have been used in attempts to hijack privately held water rights associated with agricultural production in the heart of rural America, where farmers and ranchers rely on these rights to secure loans, as well as irrigate crops and livestock. This federal water grab has broad implications that have begun to extend beyond recreation and the farming and ranching community, and are now threatening municipalities and other businesses.

As you know, water is the lifeblood of the Western United States and all water users including grazers, farmers, ski areas, businesses, tribes, and municipalities need certainty that all federal land management agencies, not just the Forest Service, are prohibited from future attempts to take privately-held water rights. Therefore, we are submitting the following report language for consideration in the fiscal year 2018 Appropriations bill to protect privately held water rights from uncompensated federal takings.

“None of the funds made available in this or any other Act may be used to condition or withhold in whole or in part, 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, limitation, or encumbrance of any water right (including joint and sole ownership), directly or indirectly to the United States or any other designee, or any other impairment of title of any water right, in whole or in part, granted or otherwise recognized under State law, by Federal or State adjudication, decree or other judgement, or pursuant to any interstate water compact.”

None of the funds made available in this or any other Act may be used to 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, renewal, amendment, or extension of any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement.

None of the funds made available in this or any other Act may be used to assert jurisdiction over groundwater withdrawals or impacts on groundwater resources, unless jurisdiction is asserted and any regulatory or policy actions taken pursuant to such assertion, are consistent with applicable State laws (including regulations) and policies governing the protection and use of groundwater resources.

None of the funds made available in this or any other Act may be used to assert jurisdiction over groundwater withdrawals or impacts on groundwater resources, if it infringes on the rights and obligations of a State in evaluating, allocating, and adjudicating the waters of the State originating on or under, or flowing from, land owned or managed by the Federal Government.

None of the funds made available in this or any other Act may be used to take any action that adversely affects any water rights granted by a State, the authority of a State in adjudicating water rights, definitions established by a State with respect to the term "beneficial use", "priority of water rights", or "terms of use"; term and conditions of groundwater withdrawal, guidance and reporting procedures, and conservation and source protection measures established by a State, or any other rights and obligations of a State established under State law."

We thank you for your consideration of this request and your leadership on these important issues.

Sincerely,



Scott Tipton
Member of Congress



Paul A. Gosar, D.D.S.
Member of Congress



Steve Pearce
Member of Congress



Doug Lamborn
Member of Congress



Ken Buck
Member of Congress



Jody Hice
Member of Congress



Bruce Westerman
Member of Congress



Ted S. Yoho, D.W.M.
Member of Congress



Doug LaMalfa
Member of Congress



Tom McClintock
Member of Congress



Liz Cheney
Member of Congress