

Congress of the United States
Washington, DC 20515

March 29, 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, DC 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, DC 20515

Dear Chairman Calvert and Ranking Member McCollum:

As you begin crafting the Fiscal Year 2018 Interior, Environment, and Related Agencies Appropriations bill, we encourage the subcommittee to include language that blocks unlawful guidance from the Environmental Protection Agency (EPA) and the *United States Geological Survey* (USGS).

In December of 2016, the EPA and USGS finalized new guidance entitled “*EPA-USGS Technical Report: Protecting Aquatic Life from Effects of Hydrologic Alteration.*” This agency report aims to expand the scope of the Clean Water Act and federal control over waters currently under the jurisdiction of states.

A March 1, 2016, “Scientific Investigations Report” from the EPA argues that the Clean Water Act (CWA) gives the EPA the authority to regulate not just the quality of the Waters of the U.S. but also the quantity, or amount, of water in the nation’s river and water systems.

The management of water rights and allocation quantities from all natural streams, lakes and other collections is an authority enshrined in state constitutions and compacts across the West – legal protections explicitly designed to exclude interference from the federal government. Under the expanded scope of authority the EPA suggests in their report, the federal government could require an individual private water owner or local municipality to obtain a federal permit anytime they alter the amount of water available in streams or other water systems.

The House passed an amendment last year prohibiting funds to implement the draft guidance and this provision was included in section 464 of the engrossed bill. This amendment was endorsed by the American Farm Bureau Federation, Americans for Limited Government, the American Public Power Association, Americans for Tax Reform, the Council for Citizens Against Government Waste, the Family Farm Alliance, the National Association of Conservation Districts, the National Water Resources Association and countless local organizations throughout the country.

In their statement endorsing the last year's amendment Americans for Tax Reform stated, "American citizens cannot afford more economic hurdles and the commandeering of state powers over precious water supplies from an overzealous, unaccountable federal government. States, local governments, and private water rights holders should not be subjected to such costly and burdensome federal overreach."

In their comments on the draft report the U.S. Chamber of Commerce stated, "The Chamber is concerned that the agencies will use these arguments to further expand federal jurisdiction over land and water features without proper Congressional authority."

The National Association of Conservation Districts (NACD) echoed that sentiment stating, "NACD believes that the report attempts to expand the [Clean Water Act] beyond Congress' original intent."

The American Petroleum Institute stated, "The Draft Report constitutes Rulemaking in the guise of guidance... The Draft Report is vague and ambiguous... [And] Owing to these concerns EPA and USGS should withdraw the draft report and not finalize it."

The Mohave Livestock Association in Arizona summed up this issue well stating, "The last thing our producers need is another layer of costly and time consuming permitting. The states understand water use in their respective ecological territories better than any centralized bureaucracy from Washington, DC."

The FY 2017 Interior, Environment and Related Agencies Appropriations bill contained language which aimed to block this report. Accordingly, we ask that you include language similar to the following again this fiscal year:

Sec. _____. None of the funds made available by this Act may be used to implement, administer, or enforce the technical report entitled "Final EPA-USGS Technical Report: Protecting Aquatic Life from Effects of Hydrologic Alteration" published by the Environmental Protection Agency and the United States Geological Survey on December 21, 2016 (81 Fed. Reg. 93681).

We must retain this important provision and prohibit funds for this misguided guidance that usurps states' rights and seeks to control the quantity of water used by individual owners and local municipalities.

We thank you for your consideration of this request, and for your leadership on the committee.



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



Tom McClintock
Member of Congress



Scott Tipton
Member of Congress