

**Congress of the United States**  
**Washington, DC 20515**

August 4, 2015

Mr. Arthur A. Elkins, Jr.  
Inspector General  
Environmental Protection Agency  
Office of Inspector General  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

Dear Mr. Elkins:

We write to request that the Office of the Inspector General (OIG) of the Environmental Protection Agency (EPA) open a formal investigation into the EPA's unprecedented grassroots lobbying effort to promote the "Waters of the United States" (WOTUS) rulemaking. Specifically, we believe that OIG should investigate all matters relevant to determining whether EPA violated the Anti-Lobbying Act (18 U.S.C. § 1913) by using funds appropriated by Congress to lobby and generate grassroots support for its regulatory agenda. Secondly, we believe OIG should investigate whether EPA violated the "publicity or propaganda" restrictions in Section 715 and Section 718 of the Consolidated And Further Continuing Appropriations Act of 2015 (P.L. 113-235), and any other appropriations legislation containing the same restrictions.

According to a May 19, 2015 *New York Times* report, the EPA engaged in a grassroots solicitation for public comments intended to generate public comments in support of the WOTUS rulemaking. The EPA apparently used an assortment of social media campaigns to solicit comments, and partnered with environmental and grassroots organizations – like the Sierra Club and Organizing for America – to promote the rule. We are particularly concerned that the most essential and democratic component of the rulemaking, the public notice and comment process, was abused and corrupted in a way that drowned out opposition to help justify the Agency's actions.

The EPA consistently made claims that it had received over one million comments on the rule, and about 90 percent of them were supportive. However, according the U.S. Army Corps of Engineers, only 20,567 of those comments were considered "unique," and of those, only 10 percent were considered substantive. The vast majority of comments – more than 98 percent – appeared to be mass mailings generated by the EPA's lobbying efforts.

While it is clear that EPA undertook an unprecedented campaign to generate support for the WOTUS rule, the extent to which the Agency's actions became illegal actions in violation of anti-lobbying statutes is unclear. The U.S. Department of Justice (DOJ) guidelines prohibit agency employees from "engaging in substantial 'grass roots' lobbying" and from "provid[ing] administrative support for the lobbying activities of private organizations."<sup>1</sup> Therefore, we believe it is imperative that the OIG immediately investigate all matters relevant to EPA's efforts

---

<sup>1</sup> U.S. Justice Department, Office of Legal Counsel, "Anti-Lobbying Act Guidelines" (April 17, 1995).

in generating support for the WOTUS rule, including the EPA's engagement and complicity with outside organizations. If OIG finds that EPA's actions were not prohibited by the letter of the law, we would appreciate your input as to what anti-lobbying statutory changes are needed to prevent similar grassroots agency efforts from occurring in the future.

All rulemakings, particularly ones of such an enormous scope and significant consequence as the WOTUS rule, should adhere to the democratic principles that underlie the Administrative Procedure Act's public notice and comment process. Rulemakings by unelected agency officials should take into account all the views of the affected public – not just its own and its political allies. Actions which violate anti-lobbying statutes to advance a regulatory agenda should be investigated and pursued vigorously by the OIG, and potentially the DOJ.

We appreciate your consideration of our request.

Sincerely,



RICK CRAWFORD  
Member of Congress



BOB GIBBS  
Member of Congress



TOM MARINO  
Member of Congress



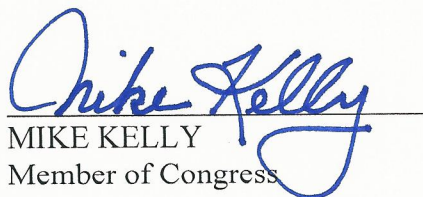
BOB GOODLATTE  
Member of Congress



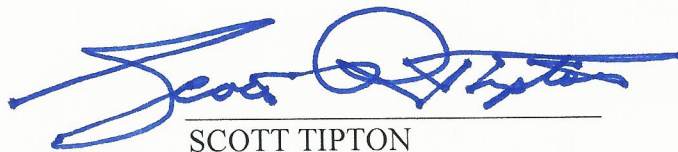
WALTER B. JONES  
Member of Congress



MO BROOKS  
Member of Congress

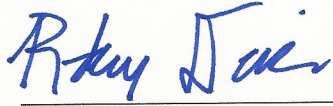


MIKE KELLY  
Member of Congress

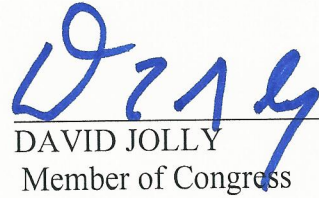


SCOTT TIPTON  
Member of Congress





RODNEY DAVIS  
Member of Congress



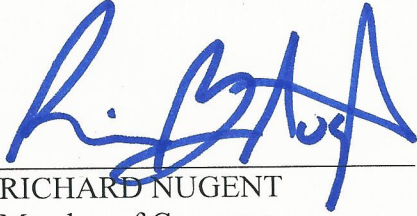
DAVID JOLLY  
Member of Congress



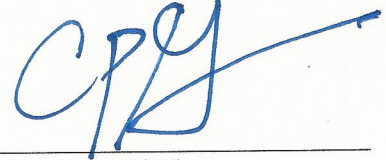
BILL JOHNSON  
Member of Congress



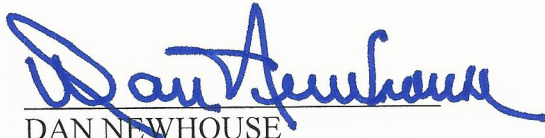
ROB WOODALL  
Member of Congress



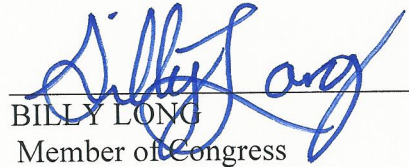
RICHARD NUGENT  
Member of Congress



CHRIS GIBSON  
Member of Congress



DAN NEWHOUSE  
Member of Congress



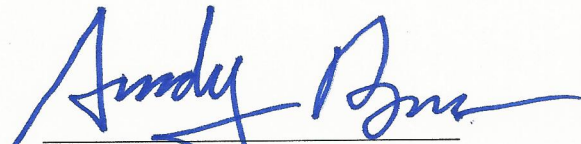
BILLY LONG  
Member of Congress



LYNN JENKINS  
Member of Congress




RAÚL LABRADOR  
Member of Congress



ANDY BARR  
Member of Congress



CHARLES BOUSTANY  
Member of Congress



TRENT KELLY  
Member of Congress

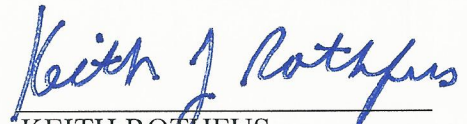


SAM GRAVES  
Member of Congress


  
BRAD WENSTRUP  
Member of Congress

  
FRENCH HILL  
Member of Congress

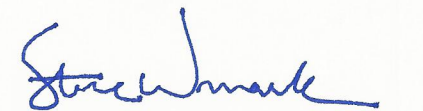
  
BILL HUIZENGA  
Member of Congress


  
KEITH ROTHFUS  
Member of Congress


  
PAT TIBERI  
Member of Congress


  
DIANE BLACK  
Member of Congress

  
DAVID JOYCE  
Member of Congress


  
STEVE WOMACK  
Member of Congress

  
JASON SMITH  
Member of Congress

  
CHRIS COLLINS  
Member of Congress

  
MARKWAYNE MULLIN  
Member of Congress

  
MORGAN GRIFFITH  
Member of Congress

  
DANIEL WEBSTER  
Member of Congress

  
KEVIN CRAMER  
Member of Congress





BILL FLORES  
Member of Congress



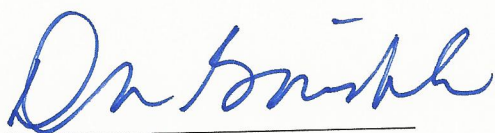
MARTHA MCSALLY  
Member of Congress



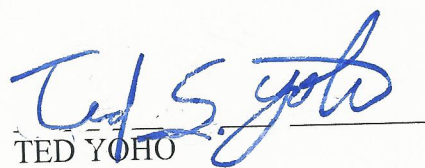
MARK MEADOWS  
Member of Congress



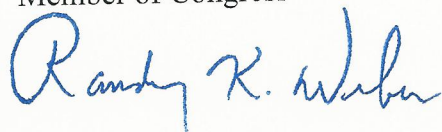
DEVIN NUNES  
Member of Congress



DAN BENISHEK M.D.  
Member of Congress



TED YOHO  
Member of Congress



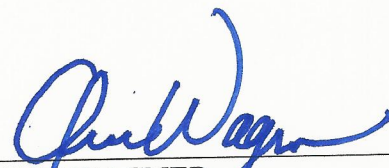
RANDY WEBER  
Member of Congress



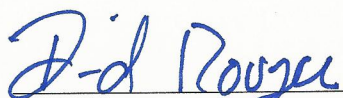
PAUL GOSAR  
Member of Congress



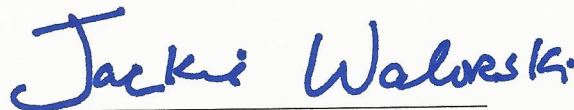
GLENN GROTHMAN  
Member of Congress



ANN WAGNER  
Member of Congress



DAVID ROUZER  
Member of Congress



JACKIE WALORSKI  
Member of Congress



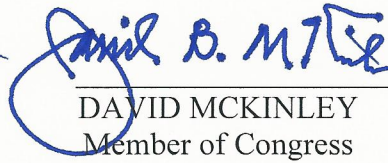
RALPH ABRAHAM  
Member of Congress



KEN BUCK  
Member of Congress



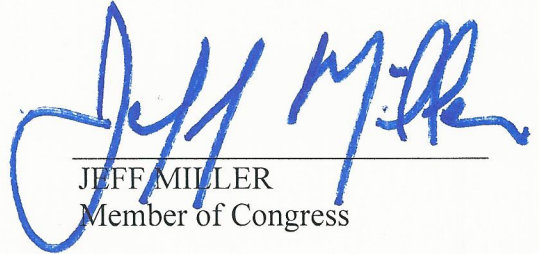
SCOTT DESJARLAIS  
Member of Congress



DAVID MCKINLEY  
Member of Congress



DAVID SCHWEIKERT  
Member of Congress



JEFF MILLER  
Member of Congress



JIM RENACCI  
Member of Congress



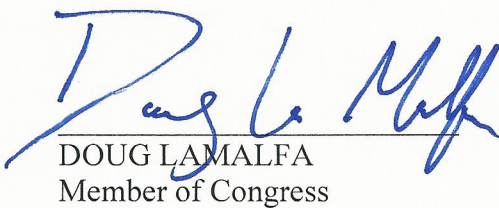
FRANK GUINTA  
Member of Congress



JOHN RATCLIFFE  
Member of Congress



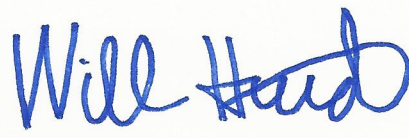
MIKE D. ROGERS  
Member of Congress



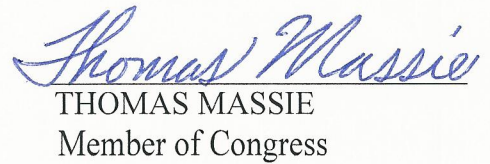
DOUG LAMALFA  
Member of Congress



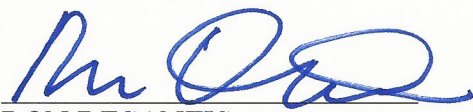
RICHARD HANNA  
Member of Congress



WILL HURD  
Member of Congress



THOMAS MASSIE  
Member of Congress

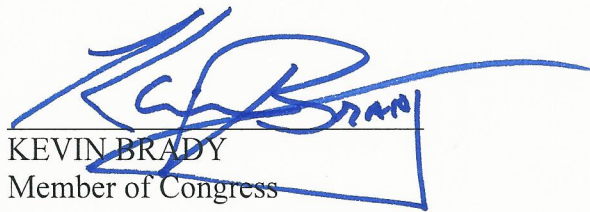


RON DESANTIS  
Member of Congress



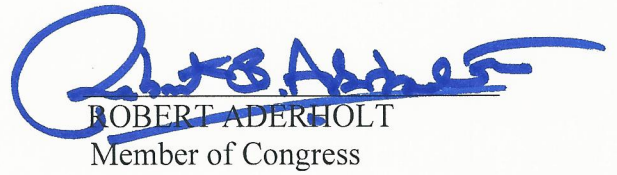
GREG HARPER  
Member of Congress





---

KEVIN BRADY  
Member of Congress



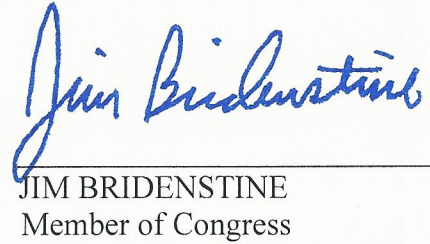
---

ROBERT ADERHOLT  
Member of Congress



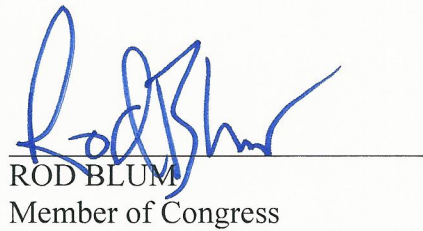
---

ROBERT PITTINGER  
Member of Congress



---

JIM BRIDENSTINE  
Member of Congress



---

ROD BLUM  
Member of Congress



---

BRUCE WESTERMAN  
Member of Congress



---

GLENN 'GT' THOMPSON  
Member of Congress




---

JOHN MOOLENAAR  
Member of Congress



---

LOU BARLETTA  
Member of Congress



---

RYAN ZINKE  
Member of Congress



---

JEFF DUNCAN  
Member of Congress



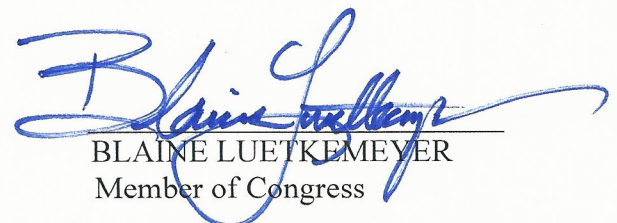
---

STEPHEN FINCHER  
Member of Congress



---


ROBERT E. LATTA  
Member of Congress



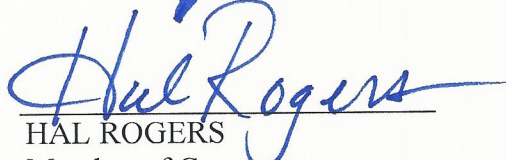
---

BLAINE LUETKEMEYER  
Member of Congress


  
JOHN KLINE  
Member of Congress

  
TIM WALBERG  
Member of Congress

  
KRISTI NOEM  
Member of Congress

  
HAL ROGERS  
Member of Congress

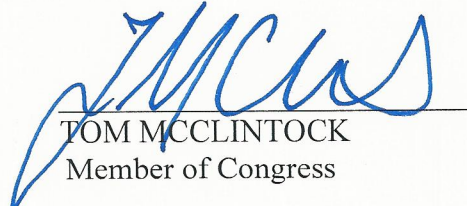
  
TIM MURPHY  
Member of Congress


  
STEVE PEARCE  
Member of Congress

  
DOUG LAMBORN  
Member of Congress

  
STEVE CHABOT  
Member of Congress

  
PATRICK MCHENRY  
Member of Congress

  
TOM MCCLINTOCK  
Member of Congress

  
SAM JOHNSON  
Member of Congress

  
MARSHA BLACKBURN  
Member of Congress

  
LOUIE GOHMERT  
Member of Congress

  
ADRIAN SMITH  
Member of Congress



*Michael B. Turner*

MICHAEL TURNER  
Member of Congress

*Vicky Hartzler*

VICKY HARTZLER  
Member of Congress

*Jeb Hensarling*

JEB HENSARLING  
Member of Congress

*Steve King*

STEVE KING  
Member of Congress

*Mac Thornberry*

MAC THORNBERRY  
Member of Congress

*Collin C. Peterson*

COLLIN C. PETERSON  
Member of Congress

*Lynn Westmoreland*

LYNN WESTMORELAND  
Member of Congress

*Ed Whitfield*

ED WHITFIELD  
Member of Congress

*John Fleming*

JOHN FLEMING  
Member of Congress

*Gus Bilirakis*

GUS BILIRAKIS  
Member of Congress

*Reid Ribble*

REID RIBBLE  
Member of Congress

*Tom Rooney*

TOM ROONEY  
Member of Congress

*Doug Collins*

DOUG COLLINS  
Member of Congress

*Mike Bost*

MIKE BOST  
Member of Congress