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PRESS RELEASE

EPA'S CLEAN WATER RULES: A FEDERAL BUREAUCRAT TAKEOVER OF STATE-MANAGED WATERS

THURSDAY, JUNE 9, 2016—Helena, MT. Montana Trout Unlimited Chairman Chris Schustrom's recent guest column in the Montana Standard offers misguided views on the EPA's new Waters of the United States Rules, or Clean Water Rules (CWR). Schustrom believes more federal regulation is the only way to protect Montana's small waters. That's a dog that doesn't hunt.

From the beginning, Montana agriculture production groups, home builders, local governments and citizens have expressed legitimate concerns that the CWR will be unilaterally extended to cover ponds, prairie potholes, and seasonal waters that dead-end, and, therefore, don't interact with free flowing, navigable waterways now managed by the EPA. Montanans can point with pride to the monitoring of state jurisdictional waters by the Department of Environmental Quality and its five water-focused advisory groups. DEQ's Montana Clean Water Act Information Center tells the story.

Everyone wants clean water; that's not the issue. The real debate is whether we trust Montanans to make decisions for Montana. CWR strips Montana's constitutionally-guaranteed right to manage our rivers and lakes, as well as ponds, ditches, dry washes, wetlands and intermittent seasonal streams and channels.

In an under-the-radar attack against state control of waters found within our state's borders, the EPA secretly promoted CWR using illegal propaganda and lobbying. This action by unelected federal bureaucrats is troubling. Federal agencies cannot engage in propaganda, defined as covert activity intended to influence Americans. They also are not allowed to use federal resources to conduct lobbying—urging the public to contact Congress to take a certain kind of action on pending legislation.

The Federal Government Accounting Office (GAO) found the EPA violated both of those prohibitions when it promoted CWR on social media entities including Twitter, Facebook, YouTube, and Thunderclap to tip public opinion in favor of CWR before the agency began collecting public comment.

Many are calling CWR a flagrant case of government overreach, and Montana Attorney General Tim Fox has joined some 30 other states and professional organizations in saying just that. A federal court agreed with petitioners, ruling that the EPA's desire to oversee a state's small waterways cannot be enforced nationwide and further saying it is likely that CWR is illegal. The appellate court placed a stay on their implementation.

Meanwhile, the nation can look with unease at the EPA's oversight of Flint, Michigan's failed city water system or the EPA-caused mine spill disaster into the Animas River near Durango, Colorado, turning the river orange. A scathing report by the Interior Department and Bureau of Reclamation found that the August 5, 2015 mine accident was not "inevitable," as the EPA's own internal review had concluded, but could have been avoided.

Schustrom unwisely believes that without CWR Montana's famed fish and wildlife populations, as well as our drinking water and irrigation supplies, are in jeopardy without more federal intervention. Nonsense—the present Federal Clean Water Act requires each state to submit a report to EPA every two years describing the status and trends of its waters, including an assessment of existing water quality and, where needed, abatement efforts.

The fundamental question, then, is who should determine what is good for state waters—Washington, D.C. bureaucrats or local experts familiar with the resources they are protecting. If a government is not doing the will of its constituents, then the proper political response should be to remove administrators from power. Politicians elected at the state level are more accountable to the voters most impacted by such policy decisions. Once the federal government has control over something, it has permanent control.

I applaud Republicans Sen. Steve Daines and Rep. Ryan Zinke for fighting for Montana's right to protect its water, and would ask Sen. Jon Tester, a fellow agriculture producer, the question I posed to him during our face-to-face meeting in Washington, D.C. in March: why Montanans are unqualified to carry out this important task of regulating our state's waters. Expanding the power of a federal agency to circumvent state prerogatives is neither an answer nor a solution. Such action is unconstitutional and a bad idea. Local issues demand local governance.

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