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Congress of the United States
House of Representatives
Washington, DC 20515–2600

July 11, 2014

The Honorable Gina McCarthy
Administrator, U.S. Environmental Protection Agency
1200 Pennsylvania Avenue Northwest
Washington, D.C. 20460

Dear Administrator McCarthy:

We are writing to express our deep concerns with a recent Environmental Protection Agency (EPA) claim to have authority to "garnish non-Federal wages to collect delinquent non-tax debts owed the United States without first obtaining a court order."

This claim seems to violate American citizens' Constitutionally-guaranteed right to due process by placing the burden of proof on the debtor, rather than the agency. The process for challenging fines and wage garnishment is not satisfactory because it allows the agency to decide if the accused can even present a defense.

The increasingly punitive nature of the agency is also of concern. According to the agency's annual reports, the amount of fines collected by the EPA has gone from $96 million in 2009 to $252 million in 2013. Though we agree stakeholders must be responsible and the EPA should enforce rules reasonably, the more than 160 percent increase in a span of only four years indicates that some of these fines may have been excessive.

The EPA has said the rule was not subject to review because it is not a "significant regulatory action." But it has recently been reported that a Wyoming homeowner was threatened with a $75,000 fine for building a pond on his property. That might seem like a drop in the bucket to a bureaucratic agency with a multi-billion dollar budget, but for the vast majority of Americans, $75,000 is a lot of money. The proposed rule would make it both more difficult to dispute such fines and provide incentive for the EPA to issue penalties against more Americans. Its impact, therefore, would certainly create "significant" hardships on affected individuals.

The agency has fast-tracked the rule to take effect on September 2nd, 2014 absent sufficient opposing comment by August 1st, 2014. We are writing to voice our strongest opposition to the rule and the EPA's inadequate engagement with the public concerning it. Further, we ask that you reverse your decision and not follow through with this rule. By doing so, your agency will demonstrate respect for the right to due process under the law that is guaranteed to all Americans by the Constitution.

Sincerely,

Steve Daines (MT-AL)
Member of Congress

Cynthia Lummis (WY-AL)
Member of Congress

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Member of Congress

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