

Hicks-Ray Associates



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TO: WESTCAS Membership

FROM: Fred B. Hicks and Tom Ray

SUBJECT: Clean Water Act Guidance Issues

The Clean Water Act Guidance is an issue that simply won't go away. Supporters of the Guidance believe it is an essential step towards restoring 'Waters of the US' protections that have been weakened by Supreme Court rulings. Opponents of the Guidance accuse the Obama Administration of trying to use it as a means to greatly expand Federal intrusion into local land use.

Nearly a year ago, 170 House Members wrote to USEPA warning that EPA Clean Water Act Guidance not be issued and used as a means to expand the outreach of the Clean Water Act. We have attached this letter and its 14 pages of Member signatures for your reference.

Last week, 26 Senators joined in introducing legislation that bans USEPA and the Corps of Engineers from issuing final Guidance. In one sense, this is a minority of Senate Members to this legislation won't go anywhere. However, much like the House letter of last year, the legislation is another strong statement from concerned Members of Congress with regard to the Clean Water Act issue. We have attached the Senate legislation also for your reference.

It's anybody's guess as to what happens next. Will the Administration hazard issuing the Guidance in this election season believing that the general public doesn't understand this kind of issue? Will the Administration simply put this issue on ice until after the elections?

What do you as a WESTCAS member think? Would the nation be better off if Guidance is used to expand the jurisdiction of the Clean Water Act? Or would we be better off if a formal Rule-Making process goes forward.

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