

Hicks-Ray Associates

Implementing Strategies, Achieving Success



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TO: WESTCAS Membership

FROM: Hicks-Ray Associates

SUBJECT: Executive and Legislation Branches Battle Over WOTUS

One of the issues that will be thoroughly discussed during the upcoming WESTCAS Federal Legislative/Regulatory Issues Workshop, February 18-19 in Henderson, Nevada will be the status of the Waters of the US [WOTUS] Executive Action. Through its membership, WESTCAS has developed a position on WOTUS that focuses on the impact of the Rule on the Arid West. The future of WOTUS is unclear and it is essential that WESTCAS continue to provide input on this issue. If you haven't already registered for the workshop, we hope that you will do so right away. We look forward to seeing you in Henderson!

The latest development on the issue was the President's veto of S.J. Res 22 on January 21. Here is the text of S.J. Res 22:

"Providing for Congressional disapproval under chapter 8 of Title 5, United States Code of the rule submitted by the Corps of Engineers and the Environmental Protection Agency relating to the definition of "waters of the United States" under the Federal Water Pollution Control Act."

Congressional Joint Resolutions possess the full force of law and are considered in the same fashion as other bills. S.J. Res 22 was the intended vehicle of the House and Senate to stop implementation of the WOTUS Rule. The Senate passed the measure on November 4, 2015 by a vote of 53 to 44. The House followed with passage on January 13 by a vote of 253 to 166. While these votes represent a majority in both chambers they fall well short of the 67 votes needed to override a Presidential veto in the Senate and the 291 votes needed in the House.

Congressional Republicans did not include WOTUS "riders" in the FY16 Consolidated Appropriations bill that passed in December. And now their attempt at a joint resolution has been vetoed. While this is disappointing to those who are concerned with how the WOTUS Rule is being implemented, it is likely that renewed attempts will be made to include riders in the FY17 Appropriations cycle. Depending on how the elections turn out, these riders could be used to stop funding for WOTUS implementation beginning October 1 of this year.

Will this be possible? We would all have a better idea of the answer if we knew who will be elected President and whether Republicans or Democrats will hold the majority in the House and Senate beginning in 2017. Between now and the end of the year, it is vital for WESTCAS members to remain an active part of the policy discussion. Sharing your views and listening to the perspectives of others on this issue is one of the great reasons you need to attend the Henderson Workshop, February 18-19.

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