



# Environmental Fees for Federal Facilities – Fee or Tax?

**Ed Curley, Strategic Planning Manager**

*Pima County Regional Wastewater  
Reclamation Department*

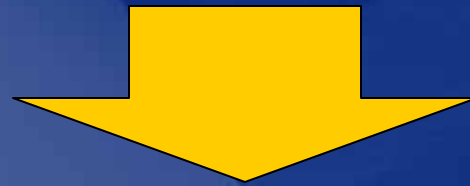
**WESTCAS,  
October 28, 2010**



# Environmental Fees in the Arid West



Stringent, costly standards for  
ephemeral streams and reclaimed  
water



Environmental fees must be structured  
to support reclamation of wastewater,  
water sustainability



## Federal government must comply with Clean Water Act



“...in the same manner, and to the same extent as any nongovernmental entity, *including the payment of reasonable service charges.*”



- Waiver of Sovereign Immunity, CWA Section 313(a)



# Fee *or* Tax ?



NACWA and  
WESTCAS  
advocate with  
General  
Accountability  
Office (GAO)



GAO advised that  
DC Water fees are  
legitimate under  
CWA

Federal agencies  
claim that fees do not  
correspond to actual  
activity on their  
facilities, so constitute  
an illegal tax

Federal agencies  
claim environmental  
projects for their  
facilities should have  
bare minimum costs,  
if any



# Why Now?

**Very little existing case law or precedent**

**Financial crisis is bringing question to the forefront**



# Who?

**Department of Defense  
(Air Force, Navy)  
and**

**General Services Administration**



# **NACWA and WESTCAS are taking the lead**

**NACWA letter to Department of Justice on  
September 10, 2010**

**NACWA and WESTCAS have proposed  
legislation to clarify environmental fees  
as part of Department of Defense  
appropriation bill**



# **We Need Your Support!**



**Report instances of this practice to  
NACWA (Nathan Gardener-Andrews)  
and WESTCAS (Harlan Agnew)**



**Help define “Reasonable environmental  
service charge” through NACWA and  
WESTCAS working groups**

**Continue work with 112<sup>th</sup> Congress**

***Stay involved!***