

Wednesday, October 25th
4:00 – 4:30 p.m.

Presentation of WESTCAS Positions for 2018

Comment letters, Briefing Papers & Policy Statements

How WESTCAS records and advocates Federal issues?

1) **Comment Letters**

- *Independently and/or Jointly*
- *Prepared and issued on an as-needed basis with Board approval*

2) **Briefing Papers, Background Memos, etc**

- *Circulated/presented to WESTCAS membership and/or Congressional offices, agencies*
- *Used as background or documentation to prepare Policy Statements*

3) **Policy Statements**

- *Perpetual or long-term WESTCAS positions*
- *Recorded on the WESTCAS website*

WESTCAS Deliberation



Building the WESTCAS
WESTCAS Federal Regu
Febru

Position Papers Underway (from October 2016 Conference)

Issue/Concern	Proposed Actions	WE cons At WE
WOTUS	<ul style="list-style-type: none"> Draft Letter to EPA/Cmts of jurisdiction Monitoring Court Actions Other? 	
Water Conservation Rebate	<ul style="list-style-type: none"> Support letter, as needed Briefing paper to clarify issue Coordination with other Western water associations 	Ju
Western Drought Legislation	<ul style="list-style-type: none"> Briefing paper on Western drought issues? Consider need for addn Western drought legislation Comment letter to Cmts of jurisdiction (e.g., add provision to WRDA 2018) Monitor interest for addn drought legislation 	
	<ul style="list-style-type: none"> Consider WESTCAS policy 	

Issue/Concern	Proposed Actions	Prior WESTCAS consideration	Updates to Consider
ESA Reforms	<ul style="list-style-type: none"> Briefing paper (or Policy Statement) Monitoring Natural Res Cmt direction on proposed ESA reforms Prepare testimony for reform bill hearings 	At many prior WESTCAS mtgs	Emerging new reform legislation anticipated
Other?			
Other?			

Emerging Issues (115th Congress) for WESTCAS Consideration & Action

Issue/Concern	Proposed Actions	Prior WESTCAS consideration	Updates to Consider
Appropriations Cycle - Funding for Water Resource Agencies	<ul style="list-style-type: none"> Prepare written testimony as opportunity presents (in regular cycle - no CR) Monitoring 115th Appropriations process; status of CR, etc 	At several prior WESTCAS mtgs	Potential for regular order in 115 th Congress; New Admin budget
WRDA 2018	<ul style="list-style-type: none"> Anticipated hearings early in 115th Congress Monitor Cmt staff proposals 	New Issue this Congress	Consider the WRDA 2016 provisions related to drought; Title XVI and other Western water interests
Title XVI Competitive Grant Program	<ul style="list-style-type: none"> Review provision of WRDA 2016 & Title XVI changes Identify opportunities for 	Competitive grant program language	None

Policy Statement

Format:

WESTCAS POLICY STATEMENT TEMPLATE EXAMPLE MARCH 2009

- I. TITLE
- II. BRIEF SUMMARY OF THE ISSUE
- III. DESCRIPTION OF IMPACTS ON ARID WEST (WESTCAS Examples)
- IV. OVERALL RECOMMENDATION OR WESTCAS POSITION
- V. (OPTIONAL) LIST OF ANNUALIZED ACTION ITEMS FOR 1-2 YEARS

POLICY STATEMENT EXAMPLE:

- I. Title
Policy Statement on Whole Effluent Toxicity Testing
- II. Brief Summary of the Issue
The Whole Effluent Toxicity (WET) test was developed to assess the potential of an effluent discharge to induce toxic effects in aquatic life. This test provides a valuable tool for protecting the nation's waters since it is not possible to assess the potential for toxic effects using solely chemical testing.
- III. Description of Impacts on Arid West
When WET requirements are incorporated into permits for the discharge of treated effluent, the requirements should be consistent with the documented variability of the test. Because the test relies on the response of living organisms, there is inherent variability in test results. The variability of the organism's response limits the ability of a permittee to determine the cause of sublethal test failures. Scientific studies relating the frequency and magnitude of sublethal test failures to a potential for instream impacts are lacking. Moreover, the salts present in waters in the arid West frequently cause ionic interference in WET testing. Additionally, most arid West receiving waters are ephemeral streams and effluent-dependent waters. Because of the absence of dilution, test pass or failure is typically determined based on samples that are 100% effluent, or nearly 100% effluent.
- IV. Overall Recommendation or WESTCAS Position
WESTCAS believes that the proper role for WET testing in permits is to identify

Preparing to Final Policy Statements



Policy Statement

Selecting Issues for Policy Statements

CONSIDERATIONS

- Significance to the Arid West
- Broad application to West
- Issue sufficiently deliberated
- Pertinent federal effect for WESTCAS to take a position
- Other considerations?

ISSUES SUGGESTED

Complete Tomorrow & Brd Adopt Friday:

- WOTUS
- Lacey Act
- Title XVI Competitive
- WRDA
- Water Conservation Rebate Program

Complete at Feb 2018 Fly-in:

- Endangered Species Act
- State Primacy for Water Management

Preparing to Final Policy Statements

INPUT


- Background Documents/Handouts
- Electronically distributed drafts and templates
- Presentations on potential Policy Statement issues
- One-on-One & workshop discussions


PROCESS


- Wed morning – overview of federal issues + Title XVI presentation
- Wed afternoon – introduce issues
- Thur morning – WOTUS presentation
- Thur afternoon – Workshop & final Statements
- Fri morning – Brd considers

Lacey Act

Background / Handouts / Reference:

 LaceyDemocraticView_HR1807

 MEMO _ 21Oct17 Update

 Updates _ June 2017

Record of Review & Completion

WESTCAS REVIEW RECORD:	2016/2017 Fly-in & several recent conferences/Brd conference calls
POLICY DRAFT REVIEWED:	October 26, 2017 – Fall Conference
BOARD CONSIDERATION:	October 26, 2017 – Fall Conference Board Meeting
COMPLETION:	

WESTCAS Policy Statement

I. TITLE:

COMPATIBILITY OF INTERSTATE WATER SUPPLY TRANSFERS WITH THE LACEY ACT

II. SUMMARY OF THE ISSUE

President William McKinley signed the Lacey Act into law in 1900. For nearly 110 years it has helped protect the environment by prohibiting the transport of a listed invasive species across a State border, at any time and for any reason. It was not until late 2009 that the Lacey came into conflict with an established interstate water supply arrangement. As aquatic invasive species, listed in the Lacey Act or with the potential to be listed, spread westward and as the inevitable increase of listed species occurs in the future, the conflicts between western water transfers and the Lacey Act will become more acute. These listed invasive species are not contaminants subject to regulation under the NPDES.

III. DESCRIPTION OF IMPACTS ON ARID WEST (WESTCAS Examples)

Lacey Act impacts waters of the arid West when of certain conditions are present including the presence of a listed invasive species combined with the transport of water over a State line. While this has helped to ensure that only certain kinds of water arrangements are compromised, but when these do occur the ability to provide water to our customers can and has been demonstrated to be severely impacted. The question now must be where the next water crisis might occur and how the water community can work with the Congress and the US Fish and Wildlife Service to prevent it.

Examples:

- NTMWD and Lake Texoma in 2009; Congress addressed issue with the passage of PL 112-237 and PL 113-117 but with cost of over \$300 million to the NTMWD.
- San Juan Water Commission and interstate transfers at risk from Colorado into

Water Conservation Rebate

Record of Review & Completion

WESTCAS REVIEW RECORD:	2016/2017 Fly-in & several recent conferences/Brd conference calls
POLICY DRAFT REVIEWED:	October 26, 2017 – Fall Conference
BOARD CONSIDERATION:	October 26, 2017 – Fall Conference Board Meeting
COMPLETION:	

WESTCAS Policy Statement

I. TITLE:

WATER CONSERVATION REBATE TAX ISSUE

II. SUMMARY OF THE ISSUE

Under the provisions of the current U.S. Tax Code, taxpayers who receive rebates for investing in energy efficiency or conservation measures are not required to pay federal taxes on the rebates under Internal Revenue Code Section 136. This language does not expressly exempt rebates provided to reduce the consumption of water or improve the management of water demand. Nonetheless, in light of the fact that water and energy are interdependent, it follows that utility customer investments in water savings will result in significant corresponding energy savings as well, and they will enable Western states to better manage an important resource.

However, fair it seems to simply add water conservation rebates to the tax-exempt status of energy rebates, it will be a major effort. As HRA has presented, based on conversation with Senate staff, opening legislation for this fix will result in a tide of suggested modification that the leadership will not want to wade into without overwhelming support.

III. DESCRIPTION OF IMPACTS ON ARID WEST (WESTCAS Examples)

Water managers throughout the arid West use many tools and approaches to conserve water. Among those sound water conservation practices, with proven results, is the use of rebates to water customers that practice water conservation or install water conserving devices.

Making water conservation rebate payments tax exempt under federal law will provide an incentive for water customers to adopt water conservation measures. Rebates are another and important tool used by water supply agencies throughout the West. Making water conservation rebates tax-exempt will provide incentives for water customers to participate in rebate programs.

Examples:

WOTUS - *template*

Record of Review & Completion

WESTCAS REVIEW RECORD: 2016/2017 Fly-in & several recent conferences/Brd conference calls
POLICY DRAFT REVIEWED: October 26, 2017 – Fall Conference
BOARD CONSIDERATION: October 26, 2017 – Fall Conference Board Meeting
COMPLETION:

WESTCAS Policy Statement

- I. **TITLE:**
WATERS OF THE UNITED STATES (WOTUS)
- II. **SUMMARY OF THE ISSUE**
- III. **DESCRIPTION OF IMPACTS ON ARID WEST (WESTCAS Examples)**
- IV. **OVERALL RECOMMENDATION OR WESTCAS POSITION**
- V. **(OPTIONAL) LIST OF ANNUALIZED ACTION ITEMS FOR 1-2 YEARS**

Title XVI - *template*

Background / Handouts / Reference:



Title XVI Coalition Letter to Feinstein-Calvert --

Record of Review & Completion

WESTCAS REVIEW RECORD: 2016/2017 Fly-in & several recent conferences/Brd conference calls
POLICY DRAFT REVIEWED: October 26, 2017 – Fall Conference
BOARD CONSIDERATION: October 26, 2017 – Fall Conference Board Meeting
COMPLETION:

|WESTCAS Policy Statement

- I. **TITLE:**
TITLE XVI COMPETITIVE GRANT PROGRAM
- II. **SUMMARY OF THE ISSUE**
- III. **DESCRIPTION OF IMPACTS ON ARID WEST (WESTCAS Examples)**
- IV. **OVERALL RECOMMENDATION OR WESTCAS POSITION**
- V. **(OPTIONAL) LIST OF ANNUALIZED ACTION ITEMS FOR 1-2 YEARS**

State Primacy – draft

WESTCAS REVIEW RECORD:	2016/2017 Fly-in & several recent conferences/Brd conference calls
POLICY DRAFT REVIEWED:	October 26, 2017 – Fall Conference
BOARD CONSIDERATION:	October 26, 2017 – Fall Conference Board Meeting
COMPLETION:	

WESTCAS Policy Statement

I. TITLE:

STATE PRIMACY FOR WATER MANAGEMENT AND WATER RIGHTS

II. SUMMARY OF THE ISSUE

Federal regulations and guidelines should recognize the States' primacy over waters within the State's borders. Many federal actions have violated the States' primacy over the management and regulation of its waters. Regulations such as the recently promulgated Waters of the United States (WOTUS) and the USACE's proposed "Water Supply Rule" are examples of actions that would impose federal regulation of States' waters, disrupting the State's primacy over its waters.

III. DESCRIPTION OF IMPACTS ON ARID WEST (WESTCAS Examples)

Most States in the Western US have long-established water rights systems to allocate and authorize legal uses of waters within its boundaries. Most of these States use a "prior-appropriation" water rights system. No federal regulation should be promulgated that conflicts or in any way overrides or confuses the State water rights or primacy.

Examples:

- The Corps of Engineers' proposed Rule <title> or Water Supply Rule would direct the Corps to account and allocate waters stored in Corps reservoirs as well as waters flowing into and out of reservoirs. The Corps provides storage space in its reservoirs. It is the states that have jurisdiction over water allocation through agreements/contracts. As written, the Corps proposal does not maintain a clear distinction between these two responsibilities.
- Waters of the US regulation includes many concerns related to federal imposition in States' water management and regulation authority.