



washington dc update

April 13, 2011

DC Updates – CEQ and the “Principles & Responsibilities”

Fasten your seatbelts and tighten your chin-straps. After many months of inertia, water resource policy issues have become very active once again. Yesterday we sent you a report on the intention of the Administration to issue Guidance with regard to the definition of “Waters of the US.” This action would accomplish by Executive Action what the Congress has not been able to address through legislation.

Today, we follow with an update on the intention of CEQ to issue its latest version of P&G. These twin upcoming actions by the Executive Branch provide a great opportunity for WESTCAS to step forward and educate decision-makers in Washington with regard to the impact on the Arid West. It won't be enough for you, as a WESTCAS member, to simply be informed or to sit on the sidelines watching these issues develop. You are going to need to become actively involved.

These policies will impact how the Federal government defines what a “water of the US” is and also whether your future projects meet a twin standard of economic need and environmental sustainability. If you have any questions or comments on our report of yesterday or on this one, please get in touch with us.

CEQ’s Principles & Responsibilities Guidance

Please note: what has been “Principals and Guidelines” and its subset of “Principals and Standards” for the last year has now been redefined as “Principals and Responsibilities.” Participants at last week’s NWRA DC Spring conference were stunned when Robyn Colosimo who is the lead official at CEQ with regard to this issue

announced a new policy and time-table. CEQ has chosen to move beyond the comments of outside organizations, including the WESTCAS submission prepared by Kelly Collins, Jim Brezack, and Bob Hollander, and to also ignore the scathing criticism of their discussion draft provided by the National Academy of Science. Instead, they will issue “Principals and Responsibilities” in June, most probably as an Executive Order. This will be followed by details for how this will be enforced and submitted for public comment.

The best way to understand this is to reference *Alice in Wonderland*:

Queen of Hearts: *Now are you ready for your sentence?*

Alice: *But there has to be a verdict first.*

Queen of Hearts: *Sentence first. Verdict afterwards.*

That pretty much sums up the impact of CEQ issuing an Executive Order establishing its authority of P&R and then moving on to the details of how it’s actually going to accomplish this.

In brief, P&R is expected to require all local agencies, before receiving Federal permits for a project, to be able to demonstrate that it meets the twin goals of economic benefit and also environmental sustainability. And until you to this to the satisfaction of a succession of Federal agencies, you won't receive your permits. It is our understanding that Federal agencies initially impacted by P&S will be those who provide grants to the non-Federal section, i.e. the Corps of Engineers, Bureau of Reclamation, USEPA, Department of Transportation, etc. etc.

Summary & Take-Away .

New CEQ Policy on P&G

Recent announcement by a CEQ official to issue what she called the “Principles & Responsibilities.” Ignoring not only the WESTCAS comments but also strong NAS criticism, the “P&R” will be issued in June (likely by Executive Order), then the details on how it will be enforced will be submitted for public comment.

Take-Away

These sorts of policies should not be issued by Executive Order from the Executive Branch but rather through legislation passed by the Congress and implemented by the Federal agencies through an open and transparent process. WESTCAS, as the voice of the arid West, should help lead the appeal for moving these issues back to the Legislative Branch.



Conclusion

The pending “Waters of the US” guidance and the anticipated Executive Order on Principals and Responsibilities could be characterized as the Federal government telling non-federal stakeholders, “we don’t have any more money to help you build your projects, so we’ve expanded the areas where you can’t build and are now requiring a whole new layer of permitting before you proceed. Have a nice day.”

We believe the response should be simple:

These sorts of policies should not be issued by Executive Order from the Executive Branch but rather through legislation passed by the Congress and implemented by the Federal agencies through an open and transparent process.

Both of these policies currently fail to meet this standard.

WESTCAS has been deeply involved with the P&R process both through submitting comments and repeated meetings with CEQ officials. Jolene MacCalab has also prepared an excellent analysis of the “Waters of the US Guidance” draft. But it appears that this issue will have to move back to the legislative branch. You as a WESTCAS member have a vital role in educating your Members of Congress.

WESTCAS will be working hard to support you in your efforts.

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