



Environmental Fees for Federal Facilities – Fee or Tax?

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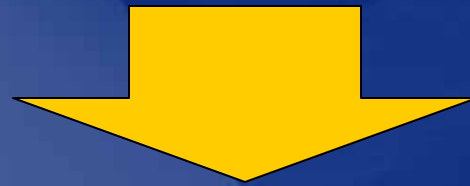
**WESTCAS,
October 28, 2010**



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 112th Congress

Stay involved!