

# Hicks-Ray Associates



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January 14, 2011

TO: WESTCAS Membership

FROM: Fred B. Hicks and Tom Ray

SUBJECT: **WESTCAS FEDERAL ALERT**

EPA has reportedly been developing internal guidance to address the issue of which waters of the US should be subject to Federal regulation. You will recall that the Agency has been under pressure for some time to develop guidance with regard to how to address two landmark Supreme Court decisions which ruled that EPA had overstepped its authority in regulating the waters of the US.

Congressional legislation in the 111<sup>th</sup> Congress was intended to address this issue with EPA following up with appropriate policy after this legislation was signed into law. But these bills died in the 111<sup>th</sup> Congress and there is much less of a chance that the 112<sup>th</sup> Congress will take up and pass similar legislation.

The EPA internal guidance is reportedly in the process of receiving final White House review and approval. Once this has been secured, a draft of the guidance is expected to be released to the public, probably in March.

WESTCAS needs to be ready to review this guidance and be ready to provide timely feedback to the Federal community.

WESTCAS members should also be aware of the reports that EPA Administrator for Water, Pete Silva, has resigned and will be returning to California.

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