Western Waters and the Clean Water Act

By Edgar Ruiz [1]
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Western legislators will have the opportunity to review and discuss recent draft guidelines aimed at determining which waters are within the jurisdiction of the federal Clean Water Act.

The CSG-WEST Western Water & Environment Committee will consider the guidelines, developed by the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers, during the 64th CSG-WEST Annual Meeting in Hawaii.

Tony Willardson, executive director of the Western States Water Council, will present a Western states’ perspective to the proposed guidelines. Representatives from respective federal entities will brief Western legislators about the newly developed draft guidelines and provide feedback.

The draft guidelines, which are currently undergoing a 60-day open comment period, will replace previous guidance to reaffirm protection of critical waters such as small streams that feed into larger streams, rivers, bays and coastal waters. The guidelines also would reaffirm protection for wetlands that filter pollution and help protect communities from flooding.

Recent interpretations of U.S. Supreme Court rulings removed some critical waters from federal protection and have caused confusion about which waters and wetlands are protected under the Clean Water Act, according to the EPA and the Army Corps of Engineers. As a result, according to the federal agencies, important waters now lack clear protection under the law, and businesses and regulators face uncertainty and delay.

The EPA and Army Corps of Engineers field staff and headquarters will likely use the new draft guidelines to make jurisdictional determinations on particular waterways whether or not the guidelines are legally binding once implemented.

As such, Western lawmakers should understand the proposed new guidelines and potential impacts to state water rights administration. Additionally, legislators, along with state water managers, must have a meaningful voice in the development and implementation of any guidance regarding Clean Water Act jurisdiction.

The Water and Environment Committee will meet on Monday, Aug. 1. The committee also will address invasive species management and will provide an opportunity to engage in an open discussion on the development of a Western Shared Water Vision.

CSG Resources
Resources

- Environmental Protection Agency, "Clean Water Act Definition of "Waters of the United States"
- Western States Water Council

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