



# washington dc update

September 24, 2012

## Heard on the Street in Tunica, Mississippi

Everyone is trying to peer into the future and see beyond the next election and what the future may hold in terms of Federal water resource policy. One of the most important unresolved issues is how to define “waters of the US.” You will recall that over the past three years, this has been the focus of legislation that the Congress was never able to agree as well as Administration attempts to develop either a Rule or Guidance to resolve the issue.

This is a huge policy question that impacts virtually all WESTCAS members. Some of the discussion from a recent National Water Ways Conference in Tunica, Mississippi, reflected the current thinking, at least of the Corps of Engineers.

The Corps’ leadership made a series of excellent presentations. The newly appointed Chief of Engineers LTG Thomas Bostick was the keynote. Giving an overview of the USACE focus for the future, Chief Bostick cited military preparedness and the Civil Works transformation as critical needs. He recognized that the nation’s water resources infrastructure has exceeded its design life and will require more extensive maintenance and rehabilitation in the future. “The Corps will have to prioritize projects and programs with rigorous analysis to ensure the greatest value for the taxpayer funds.” But how does the broad vision compare to the budget and regulatory focus.

A detailed briefing was presented the FY13 Corps proposed budget. A total budget of \$ 4.731 Billion was broken down by business lines, which showed that for most major business item related to water resources (navigation, flood risk management, ecosystem restoration, and hydropower) there was a decrease in the FY13 proposed budget as compared to the FY12 budget or FY12 appropriated funds. However, two line items, recreation and regulatory support received increases in the FY13 budget. There was \$9 million increase over the FY12 budget (\$12 million if compared to the FY12 appropriated amount) for “regulatory support.” Regulatory support was one item that Congress actually cut. When questioned about this line item, it turns out that, in addition to rulemaking and inflation cost, this increase is “...to implement new field level initiatives for Clean Water Act jurisdictional determination....”

It is interesting that while the Administration has not announced how it would approach the “waters of the US” issue in a second term, it has requested funding to support increased regulatory outreach in connection with the issuing of Guidance. WESTCAS members will have to consider and decide for themselves whether this is just smoke or whether there is in fact fire. We certainly need to understand what “new field level initiatives” are being considered in the FY13 budget.

In general, the WESTCAS membership has been willing to work through a rule-making process on this issue with its transparency and stakeholder involvement. But the issuing of Guidance which has been developed almost completely out of the public view but still has the force of a Rule would be very different.

We will be prepared to discuss this issue in much greater detail and provide the latest updates at the Tucson conference which is now just two weeks away.



It's not too late to join us.

**WESTCAS**  
**2012 Fall Conference**  
**October 10-12, 2012**  
**Westward Look Resort**  
**Tucson, AZ**

*What is the nexus between regulatory and legislative issues? How is WESTCAS responding to both?*

Join us at the WESTCAS Fall Conference for that discussion.

We will also focus on:

- Does the Corps FY13 budget reflect anticipate increased regulatory actions in identifying jurisdictional waters under the CWA?
- Without ‘earmarks’ has Congress lost some of its influence with the Corps, and other federal agencies?

*Join us—your input is needed and will be heard!*

