



# washington dc update

July 22, 2010

## **ALERT!** *Concerning Clean Water Issues*

There are now just days left in the summer session of Congress, after which the Congress will adjourn until mid September and then return for only a few weeks before adjourning once again in early October for the mid-term elections.

WESTCAS members must remain alert to two important developments that will be occurring in the near future. This is the most important DC Update that we have sent for a long time. Please read carefully:

### Clean Water Act Legislation

Congressman Oberstar is making on last push to try and move HR 5088, the “Americas Commitment to Clean Water Act” legislation which he introduced in April. Mr. Oberstar may consider folding HR 5088 into a full Committee markup for the Water Resources Development act which he has scheduled for next Thursday, July 29<sup>th</sup>. He has also released letters from Federal agencies including the Corps of Engineers, USEPA, and CEQ stating that the removal of the term “navigable” from the bill does not expand jurisdiction of the Clean Water Act.

Numerous organizations, including water related ones, are respectfully disagreeing with Mr. Oberstar’s assessment and opposing HR 5088. This includes ACWA which is preparing a letter that will be signed by water organizations expressing opposition to the bill in its current form. WESTCAS will be invited to sign this letter.

Despite Mr. Oberstar’s last minute push, the chances for passage of HR 5088, at least in the near term, do not appear to be good.

### EPA Proposed Rule-Making on Clean Water Act

Two weeks ago we reported on the designation by USEPA Administrator Lisa Jackson of the Los Angeles River as navigable. This designation means that the entire 834 square mile watershed of the river is now impacted by Clean Water Act.

Now the word is that as soon as the Congress recesses and DC settles into its summer doldrums that USEPA will publish a Federal Register Notice proposing a 60-90 day rule-making period to expand the jurisdiction of the Agency in terms of the Clean Water Act. Reliable sources are reporting that this proposed rule-making will largely sweep away the impacts of the *Rapanos* and other decisions and take regulation back to a time before these land-mark decisions.

The bottom line here is that with Clean Water Act legislation stalled in Congress, the Administration is moving forward to take matters in its own hands by having USEPA do what Congress seems incapable of. This should not be the Executive Order route that we have so often written about but rather a rule-making process. This will hopefully give WESTCAS members time to study the proposals and then create our own response. We must also work closely with other like-minded organizations to be aware of the responses they are making.

### The Bottom Line

- WESTCAS must prepare to decide if it wants to sign onto the ACWA letter to Chairman Oberstar expressing opposition to HR 5088 in its current form.
- WESTCAS must remain vigilant and watch for the USEPA Federal notice and be prepared to draft comments with regard to the proposed rule-making.

#### **Contact Fred or Tom**

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