

# Hicks-Ray Associates



August 25, 2010

TO: WESTCAS Membership

FROM: Fred B. Hicks and Tom Ray

SUBJECT: Corps of Engineers Civil Works Fact Sheet

The Corps of Engineers has issued a two page “Fact Sheet” with regard to its Civil Works program which we found interesting. If you open the document and go to page two, we have highlighted two sections of particular interest to us. The first includes some interesting statistics on the Corps’ permitting program:

- In FY09 the Corps decided 71,260 permit cases including the granting of nearly 50,000 permits, imposing modifications on 2,760, denying 260, and having nearly 10,000 withdrawn by the applicant and determining that another 10,000 did not require a permit.

This section of the report notes that the Corps has had the authority to regulate through permits construction in navigable waterways since the Rivers and Harbors Act of 1899 and the authority to permit all “waters of the United States” since the passage of the Clean Water Act of 1972.

With Federal discretionary spending pretty much frozen as far into the future as one can see, it is interesting to consider how a static number of Corps employees would deal with the permit load that would be required if legislation expanding the term “navigable waters” to everything from mud puddles on up should pass the Congress. There is real food for thought here.

One solution would be to expand, in the next WRDA, the authority of local sponsors to essentially pay the Corps to hire the personnel necessary for processing a particular permit. Is it fair to allow those with deep pockets to step to the front of the line with their project? There are arguments on both sides.

And then at the bottom of page two:

- “As USACE moves forward to budget for future Civil Works programs we are seeking to move from planning just individual project solutions to more collaborative arrangements with other federal, state, local and non-governmental

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Fred Hicks - 703.866.4290  
P.O. Box 2115  
Springfield, VA 22152-0115  
[fred@hicks-ray.com](mailto:fred@hicks-ray.com)

Tom Ray - 254.855.0880  
P.O. Box 955  
Waco, TX 76703-0955  
[tom@hicks-ray.com](mailto:tom@hicks-ray.com)

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agencies to research and plan basin-wide or regional sustainable water resources solutions to the spectrum of water problems. At the same time we are improving our ability to plan for reasonably foreseeable changes to water supply, storm patterns and sea level rise that may occur due to climate change and to inject more corporate and private responsibility for the risks encountered in their own decisions to build or invest.”

This is the direction the Corps is moving. WESTCAS members may want to review their own plans for future Corps projects and consider how much they fit into this framework.