## Agenda

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Current Legislative Issues

- WRRDA/WRDA and upcoming Conference
- CWA Rulemaking
- EPA Water Transfer Rule
- Invasive Species – HR 1823, USFWS CE regs
- USACE Water Supply Rulemaking
- FY 14 Appropriations
WRRDA/WRDA
Understanding the Bills and Preparing for the Workshop
Chairman Shuster prevails...
Chairman Shuster comments…

“WRRDA is the most policy and reform focused legislation of its kind in the last two decades. This bill contains no earmarks, cuts red tape for improvements that will strengthen our economic competitiveness, streamlines the infrastructure review process, and deauthorizes $12 billion of outdated projects in order to more than fully offset new authorized Corps activities. Fundamentally, this bill is about jobs.
The Administration supports House passage of H.R. 3080 as it would advance some of these policies and principles, but it should be improved with additional reforms and modifications of problematic provisions.
S.601, Water Resources Development Act of 2013

- April 15th – unanimous vote of EPW
- May 15th – passes out of Senate 83-14

HR 3080, Water Resources Reform and Development Act

- Sept 19th – unanimous vote of T&I
- Oct 23rd – passes out of House 417-3

Chairman Shuster said he doesn't expect a conference committee on the water bill to be named this week, but House and Senate staffers have begun discussions. Asked whether the Senate would accept the House's approach of authorizing specific projects, Shuster was noncommittal: "I don't know." He said discussions with some senators - not including Senate EPW Chairwoman Barbara Boxer - had been productive. "I don't want to jinx anything."
Major Differences (in order of importance to Western water)

THE MAIN CHALLENGES TO THE CONFERENCE COMMITTEE

- **Project Selection Procedure**
- *S.601 loan program (WIFIA)—not in HB3080*
- S.601-Levee grant prgm; tech assist in HB3080
- Four prj authorized in HB3080 not in S601
**Permitting & Environmental Review** – both bills provide measures to streamline, HB3080 with specific timeframes & expanded use of CE;

- Both bills **expand the authorities for nonfederal contributions and roles on federal projects**;
- HR3080 authorizes a **public-private project delivery** pilot program for 15 projects;
- **Feasibility studies** (HR3080) limited one study at $3M, 3 years duration, concurrent review at 3 levels
- **Reconnaissance studies** requirement is eliminated in HB308
Authorize/Deauthorize

**HR3080 - Authorize 23 specific new construction projects**, which the bill identifies as totaling $3.1 billion over 5 years; six largest total of $8.8B, with federal share at $5.3B

**S601 – Authorize projects with Chief’s Report and referred to Congress by date of bill**

**HR3080 - Deauthorize $12B in pre-WRDA 2007 projects that meet certain criteria;**

**S601 – Congress appointed commission to review all projects and identify projects to deauthorize**
WESTCAS Comments to Conference

WORKSHOP AGENDA

- Further review of WRRDA/WRDA related to Western water
- Draft comment letter will be provided for your review and input
- Anticipate a Conference Committee soon (next week likely)
CWA Rulemaking
The Congressional Role
WESTCAS opportunity to reach out to Congress

Congress will be and has gotten involved.

Lamar Smith, Texas
Chairman

EDDIE BERNICE JOHNSON, Texas
Banking Member

October 18, 2013

The sweeping reinterpretation of EPA jurisdiction would give the agency the power to control over private property across the nation. In light of the significant implications this action would have on the economy, property rights, and state sovereignty, this process must be given more thought and deliberation to allow for important, statutorily-required, weighing of the scientific and technical underpinnings of the proposed regulatory changes.
EPA Water Transfer Rule
WESTCAS provide support of EPA position!?
The U.S. Supreme Court's refusal to disturb a ruling that judicial review of a controversial water transfer exemption under the Clean Water Act must start in district court means it will be easier for parties to challenge similar permitting exceptions, creating regulatory uncertainty for water management agencies.
The Eleventh Circuit said the water transfer rule, which has been challenged by several environmental groups and U.S. states, doesn't issue or deny a permit or establish an effluent limitation, the only two instances in which the appeals court is authorized under the CWA's judicial review section to get the first crack at certain EPA rulings.
Potential Outcomes

- Previous District rulings have all favored plaintiffs
- If EPA losses in District, water transfers at risk
- Slippery slope from worse examples to transport of any contaminants
- Water transfer without NPDES could be subject to lawsuit

Should WESTCAS be involved? If so, by what means?
Invasive Species

Good Intentions but with Potential **Serious** Impacts to Western Water Issues

HR 1823 and similar efforts

USFWS proposed regulations for use of Categorical Exclusions

NTMWD example … but it could be your water transfer!
Texoma Pump Station

- 80-100 ft. of water depth
- 90 MGD pumping capacity
- Expanding to 125 MGD
OKLAHOMA – TEXAS LAKE TEXOMA BOUNDARY EXHIBIT
HR 6007 – The North Texas Zebra Mussel Barrier Act of 2012
Introduced: June 21, 2012
Sponsor: Rep Hall with Co-sponsors: Sessions & Johnson
Exempts NTMWD & GTUA from the Lacey Act for water transfers from Lake Texoma in a closed conveyance system to the water treatment facilities
Passed unanimously House Natural Resources in August, by the House on September 10th
Passed by Unanimous Consent (UC) late in the 112th
## NTMWD Response & Impact

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<tr>
<th>Date</th>
<th>Board Action</th>
<th>Amount</th>
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<tr>
<td>May 2011</td>
<td>Zebra Mussel Action Plan</td>
<td>$1,391,500</td>
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<tr>
<td>December 2011</td>
<td>Property Acquisition</td>
<td>10,900,000</td>
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<tr>
<td>September 2011</td>
<td>Engineering</td>
<td>16,606,010</td>
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<tr>
<td>November 2011</td>
<td>Additional Personnel</td>
<td>179,835</td>
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<td>January 2012</td>
<td>CMAR Funding</td>
<td>261,692,885</td>
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<td></td>
<td>Total</td>
<td>$290,770,230</td>
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<td>June 2012</td>
<td>Bond Sale</td>
<td>$295,000,000</td>
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Pipeline scheduled for completion in early 2014
USACE “Water Supply Rulemaking”
The Rulemaking that remains a mystery, but could have impacts on Western water

Purpose of Rule is Vague—pricing of surplus water, defining terms, and other?

HDQ has not or cannot provide details (will not consider advanced rulemaking)

WESTCAS should monitor, collaborate and respond as appropriate
FY14 Appropriations

Current Legislative Issues
FY 14 Appropriations

- House and Senate approach Sequestration
- Difference of $91 Billion
- Infrastructure funding proposal for $100 Billion
- Next week first meeting of House and Senate negotiators a result of the deal to reopen the government and extend the government's borrowing authority
- Will involve 22 Senate conferees and seven House conferees.
This week, Commissioner Michael Connor revealed USBR plans to issue a funding opportunity announcement. An announcement on the availability of WaterSMART grants is expected to be made in mid-November. Final grant awards are expected to be awarded in early 2014, subject to a final budget agreement.
Western Water Concerns – WESTCAS Leadership Issues
WESTCAS Leadership Issues

- Water transfers in the West
  - Invasive species (educate Members, staff)
  - Water Quality
  - Water Transfer Rule
- WRDA/WRRDA Conference comments
  - Science before drafting Rule
  - Support and Inform Congress
- USBR Comment Ltr – leadership issues & funding
Concludes the Washington Update

Let’s get started on the WRDA Leadership Issue / USBR comments at upcoming Legislative Workshop