



WESTCAS

The Western Coalition of Arid States

Hicks-Ray Associates

WASHINGTON REPORT

WESTCAS 2013 Fall Conference

October 31, 2013



Topics

Current
Legislative
Issues



Western Water
Concerns –
WESTCAS
Leadership
Issues



WESTCAS
Response:
WORKSHOP

Agenda

Current Legislative Issues	HRA Reviews with input/questions
Workshop Preparation	Review Major WRRDA Provisions and Differences/Similarities with WRDA (Senate)
Western Water Issues	Where WESTCAS can Provide Leadership
Brad Hiltcher presentation	
Legislative Workshop	Comment letter to Conference – from the Western water perspective

Current Legislative Issues

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

WRRDA

Chairman Shuster
prevails...



WRRDA



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our economic competitiveness, streamlines the infrastructure review process, and deauthorizes \$12 billion of outdated projects in order to more than fully offset new authorized Corps activities.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."

Administration's position



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

October 23, 2013
(House)

STATEMENT OF ADMINISTRATION POLICY

H.R. 3080 - Water Resources Reform and Development Act of 2013

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.





WRDA/WRRDA



S.601, Water Resources Development Act of 2013

HR 3080, Water Resources Reform and Development Act

Strong Bipartisan Support for Both Bills

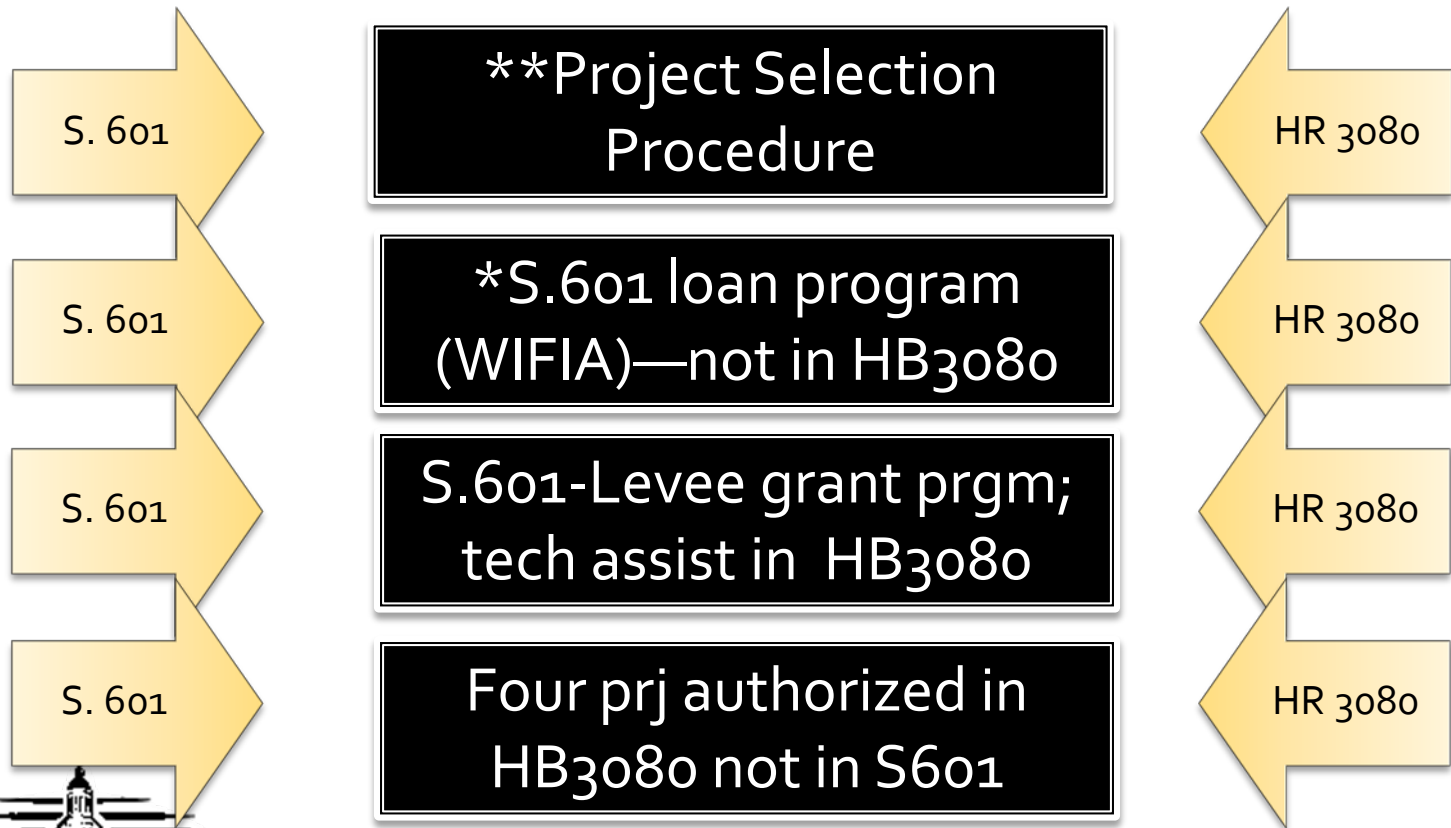
- April 15th – unanimous vote of EPW
- May 15th - passes out of Senate 83-14
- Sept 19th – unanimous vote of T&I
- Oct 23rd – passes out of House 417-3

Conference Committee expectations

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 Delivery & Permitting

- 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

Current
Legislative
Issues

CWA Rulemaking

Congress will
be and has
gotten
involved.

LEONAR S. SMITH, Texas
CHAIRMAN

Congress

EDDIE BERNICE JOHNSON, Texas
RANKING MEMBER

WESTCAS opportunity
to reach out to Congress

October 18, 2013

drainages, the agency's sweeping reinterpretation of EPA jurisdiction would give the agency 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!?

Current
Legislative
Issues

Water Transfer Rule at risk

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.

Circuit Court lacks jurisdiction

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 been reversed by the Ninth Circuit and the Supreme Court
- If EPA losses in court are significant, the risk of a nationwide injunction is high
- Slipperiness of the regulatory process may lead to a nationwide injunction
- Water quality standards for NPDES could be subject to a nationwide injunction

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

Invasive Species

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

Current
Legislative
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



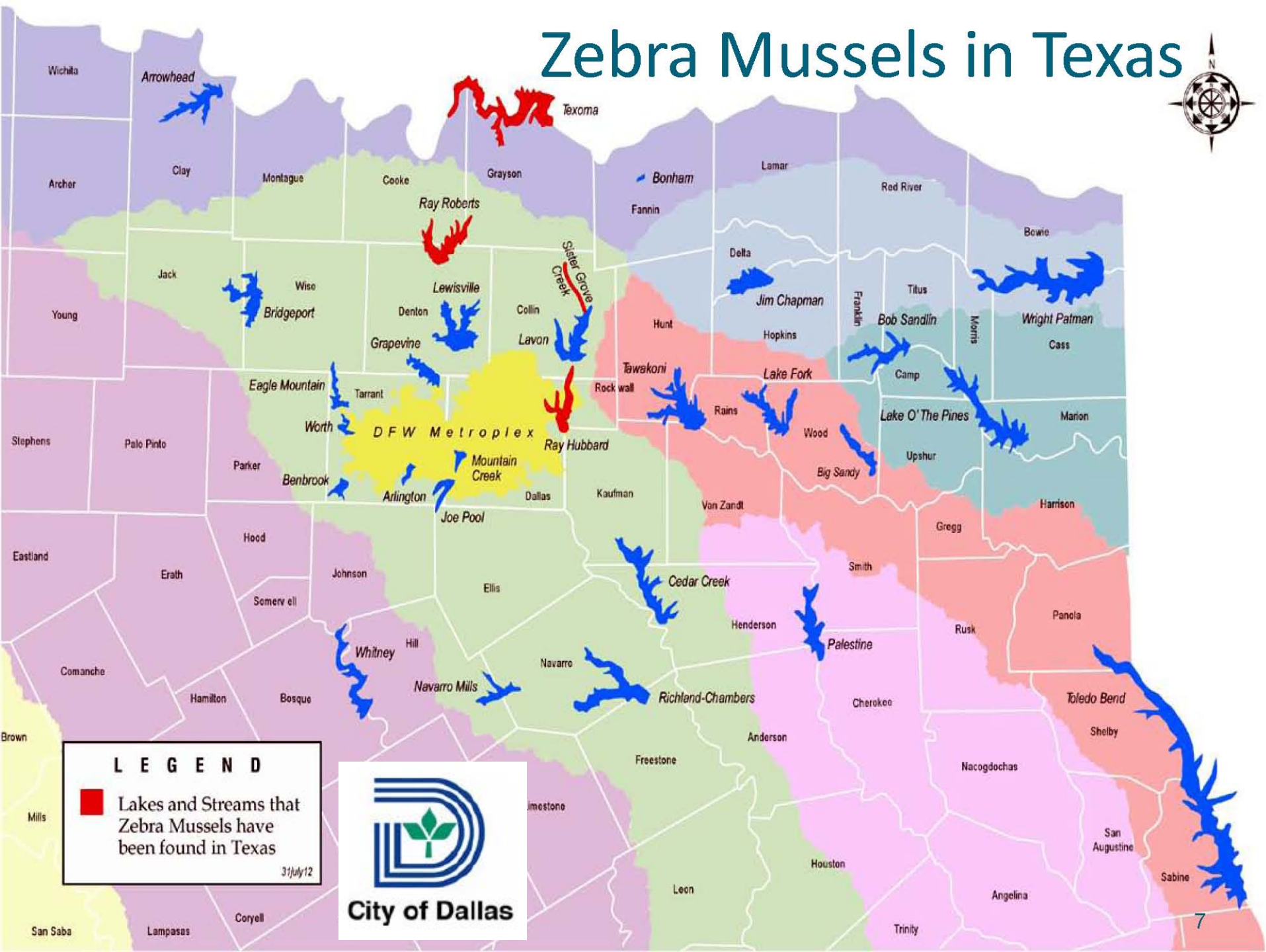
80-100 ft. of water depth

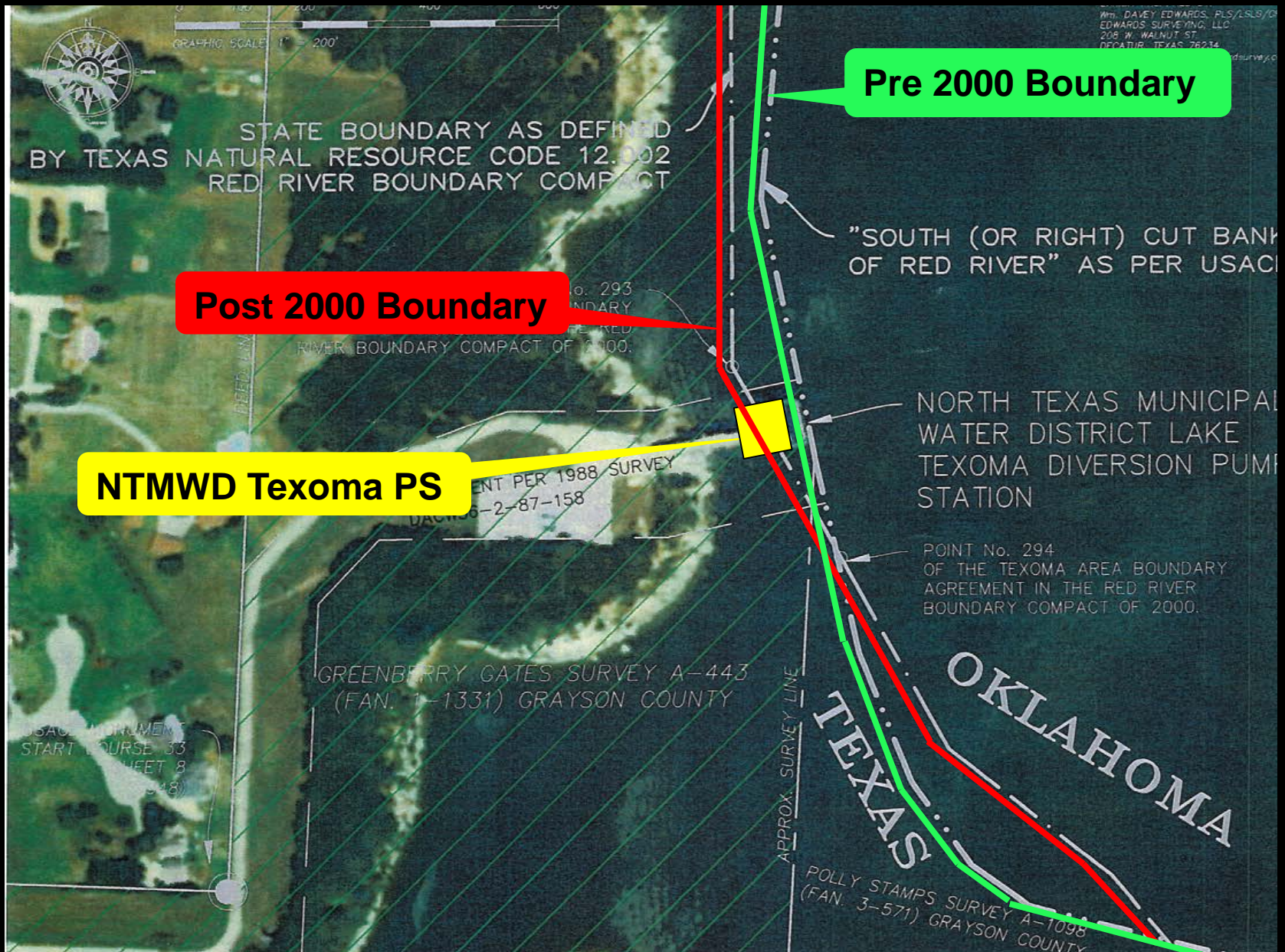
90 MGD pumping capacity

Expanding to 125 MGD

Raw Water Pump Station

Zebra Mussels in Texas



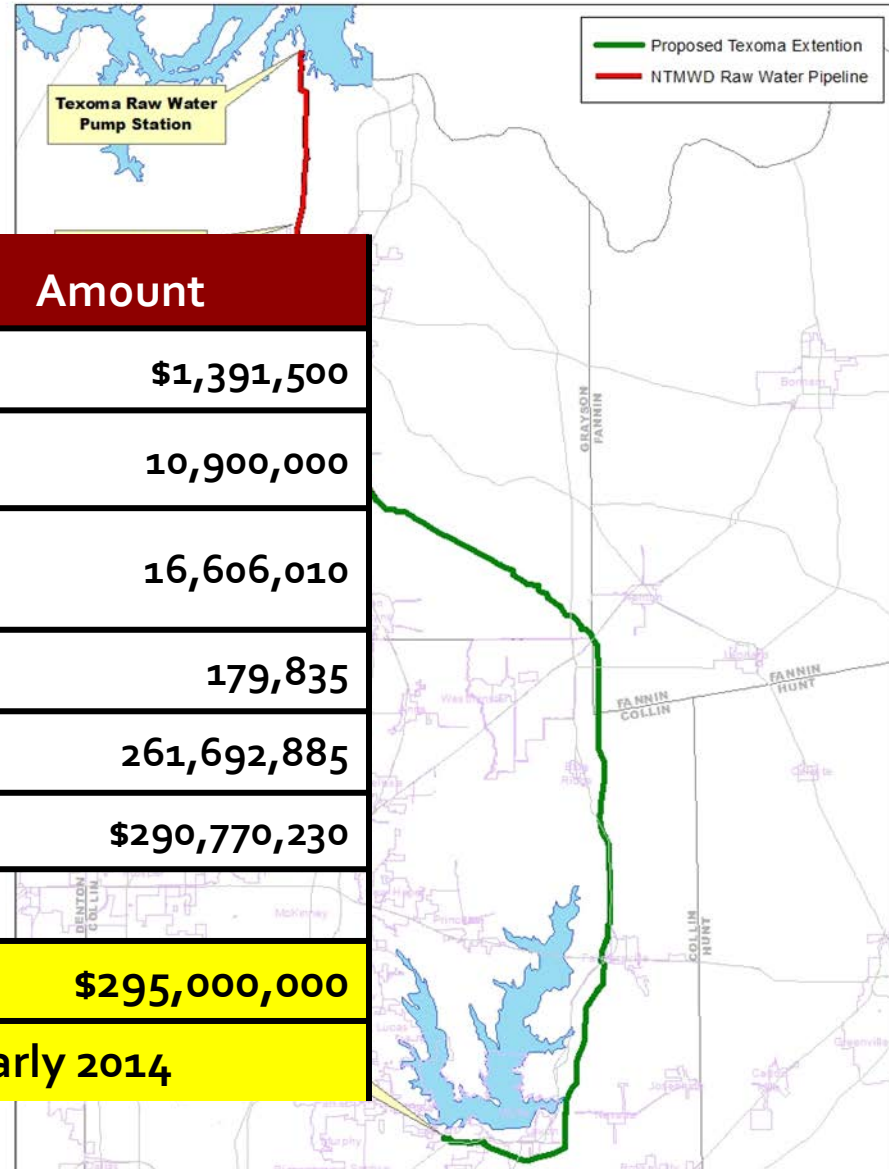


OKLAHOMA – TEXAS LAKE TEXOMA BOUNDARY EXHIBIT

Federal Legislation – specific to Texas

- 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



Date	Board Action	Amount
May 2011	Zebra Mussel Action Plan	\$1,391,500
December 2011	Property Acquisition	10,900,000
September 2011	Engineering	16,606,010
November 2011	Additional Personnel	179,835
January 2012	CMAR Funding	261,692,885
	Total	\$290,770,230
June 2012	Bond Sale	\$295,000,000

Pipeline scheduled for completion in early 2014

USACE “Water Supply Rulemaking”

The Rulemaking that remains a mystery, but could have impacts on Western water

Current
Legislative
Issues

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.

USBR Discussion

U.S. Department of the Interior | Bureau of Reclamation

Contact Us | Site In



RECLAMATION

Managing Water in the West

Search Reclamation



[WaterSMART Grants](#)

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.

Wa
Landscape
Conservation
Cooperatives
Westwide Climate Risk
Assessments

technical, economic, and environmental viability of treating and using brackish groundwater, seawater, impaired waters, or otherwise creating new water supplies within a specific locale.
[More...](#)

posted

January 2014
WEEG Application Deadline

June 2014

of Arid States

Western Water Concerns WESTCAS Issues

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

Close of Washington Update

Concludes the Washington Update

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

WESTCAS
Response:
WORKSHOP

Brad Hiltcher

Metropolitan Water District of Southern California
