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“Water Future”

A Perspective On Change in Western Water
By Kris Polly

Importance of WESTCAS

“WESTCAS is a pure, member-driven organization, and the only one focusing exclusively on water quality. Every irrigation district and western municipality should be involved in WESTCAS.”

Chris Treese

External Affairs Manager

Colorado River Water Conservation District



"I am committed to delivering the best product possible in drinking water and to excel in customer service."

*Gus Gonzalez, P.E.
Water Director
City of Corpus Christi*



"Water managers must be planners. They must anticipate change, be prepared, and always thinking about water in the future."

Gus Gonzalez, P.E.

Water

Director

City of Corpus Christi

Four Top Water Issues

- Water Resources Development Act (WRDA)
- EPA's Proposed Clean Water Act Jurisdiction
- Reclamation Budget and Shutdown
- FDA Proposed Rule Impacting "Agricultural Water"

WRDA in the House

- On October 23, the House of Representatives passed the Water Resources Reform and Development Act (WRRDA) of 2013 (H.R. 3080) by a vote of 417-3.
- On September 19, the House Committee on Transportation and Infrastructure unanimously approved.
- **Authorizes \$10 billion** for priority water resources infrastructure improvements recommended to Congress by the Chief of the Army Corps.
- **De-authorizes \$12 billion** of old, inactive projects that were authorized prior to WRDA 2007; Sunsets new authorizations to prevent future project backlogs;

WRDA in the House

- Limits the Army Corps' project feasibility study process to 3 years and no more than \$3 million in costs; Consolidates or eliminates duplicative or unnecessary studies and requires concurrent reviews; Streamlines environmental reviews;
- Maximizes the ability of non-federal interests to contribute their own funds, including to expedite the evaluation and processing of permits; Establishes a Water Infrastructure Public Private Partnership Program.

WRDA in the House

- *Levee Safety:*
 - Provides for federal technical assistance to states to improve or create levee safety programs.
 - Calls for the establishment of federal guidelines for levee safety that incorporate federal, state, and local activities.

WRDA in the House

- Title 33 - Navigation and Navigable Waters, Chapter 46 - National Levee Safety Program, "levee" is defined: "an embankment, including floodwalls—
 - (i) the primary purpose of which is to provide hurricane, storm, and flood protection relating to seasonal high water, storm surges, precipitation, and other weather events; and
 - (ii) that normally is subject to water loading for only a few days or weeks during a year."

WRDA in the Senate

- On May 15, 2013 the Water Resources Development Act (WRDA) of 2013 (S. 601) passed the Senate by a vote of 83 to 14. Main provisions of S. 601 include:
 - Authorizes \$12.2 billion covering 18 projects with completed Chief of Engineers reports and referred to Congress by the Chief of the Army Corps by the date of enactment.
 - Requires the Corps to provide Congress with a complete list of all uncompleted, authorized projects and creates a Commission to identify projects for de-authorization.

WRDA in the Senate

- *Project Delivery.* Increases flexibility for non-Federal sponsors of Corps projects and accelerates project delivery. Reforms include:
 - Codifying a Corps initiative to finish new feasibility **studies in less than three years**;
 - Improving the environmental review process; and
 - Creating two pilot programs to expand the local role in project implementation.
- Establishes a **5-year project financing pilot program**, modeled on the TIFIA program, to provide loans and guarantees for flood control, water supply, and wastewater projects.

EPA's Proposed CWA Jurisdiction

- The Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers have sent a draft rule to the Office of Management and Budget to clarify the jurisdiction of the Clean Water Act.
- The draft report makes three main conclusions:
 - Streams, regardless of size and flow, are **connected** to and impact downstream waters;
 - Wetlands and open-waters in floodplains of streams and rivers, and in riparian areas, are **integrated** with streams and rivers, affecting the water flow, introducing nonpoint source pollution, and exchanging biological species.
 - There is **insufficient information to generalize** about wetlands and open-waters located outside of riparian areas and floodplains and their connectivity to downstream waters.

Potential Effort to Expand CWA Jurisdiction

- The U.S. Supreme Court has addressed the issue of CWA jurisdiction in several cases. Justice Kennedy's concurring opinion in *Rapanos v. United States*, 547 U.S. 715 (2006), stated that EPA or Army Corps must prove on a case-by-case basis that a particular water or wetland has a "significant nexus" to a navigable water. Justice Scalia's plurality opinion held that CWA should apply to waters and wetlands with a "continuous surface" connection to navigable waters.
- The draft report attempts to address Kennedy's "significant nexus" test by establishing a scientific basis for the connectivity of tributary streams and wetlands in riparian areas and floodplains without undertaking a case-by-case analysis.

EPA Public Comments

- EPA's independent Science Advisory Board (SAB) is soliciting public comment on the draft study.
- Comments are due **November 6, 2013**. The SAB will hold a public meeting **December 16-18, 2013** to conduct a scientific peer review of the draft report.

Reclamation Budget and Shutdown

- 2013 Full Year Continuing Resolution, includes a 0.2 percent across-the-board (ATB) reduction and the application of the sequester (pursuant to the Taxpayer Relief Act of 2012).
- Initial 2013 Full Year Operating Plan: \$1.047 billion
- Final 2013 Full Year Operating Plan after ATB and Sequester: \$993 million
- Total Reduction: \$54.7 million (5.2% of initial funding)

Shutdown Effects

- The two and a half week federal government shutdown this October adversely impacted much of the Reclamation workforce.
- Total furloughed workers: 3,348 nationwide
- Percent of total Reclamation workforce furloughed: 64%

2014 Reclamation Budget Request

- Total Request: \$1.0 billion
- Water and Related Resources (Reclamation's principal operating account): \$791.1 million
- WaterSMART: \$35.4 million
 - Grants: \$12 million
 - Basin Studies: \$4.7 million
 - Title XVI Water Reclamation and Reuse: \$14 million
 - Water Conservation Field Services: \$3.4 million
 - Shared Investment Water Innovation Program: \$1.0 million
 - Cooperative Watershed Management: \$250,000

FDA Proposed Rulemaking “Agriculture Water”

- **FDA Food Safety Modernization Act (FSMA) includes:**
 - **Inspection, maintenance, and follow-up actions** related to the use of **agricultural water, water sources, and water distribution systems;**
 - **Treatment** if there is reason to believe the water is not safe and of adequate quality for its use;
 - **Periodic analytical testing,** with some exemptions, and remediation;
 - **Recordkeeping** of inspections, treatment methods and monitoring results, and testing results.

FDA Proposed Rulemaking “Agriculture Water”

- Exemptions to the proposed rule include:
 - Specified produce commodities that are rarely consumed raw;
 - Produce used for personal or on-farm consumption;
 - Commercially processed produce that adequately reduces the presence of microorganisms;

FDA Proposed Rulemaking “Agriculture Water”

- Exemptions to the proposed rule include:
 - Farms with an average annual value of food sold during the prior 3 years of \$25,000 or less; and
 - Farms that (1) have food sales averaging less than \$500,000 per year during the last 3 years; and (2) whose sales to qualified end-users (consumers or a restaurant/retail shop within the State and within 275 miles) exceed sales to others.

FDA Proposed Rulemaking “Agriculture Water”

- Timeline of Events:
 - April meeting with FDA and Washington State
 - Interview with Mike Taylor in July/August issue of *Irrigation Leader* magazine
 - August 12-16 tour irrigation and processing in Washington, Oregon and Idaho
 - Working on follow-up interview now
 - November 15 comment period deadline













“It is not practical to treat this irrigation canal water,” FDA Deputy Assistant Secretary Mike Taylor. Statement made during tour of Quincy Columbia Basin Irrigation District, August 13, 2013.

FDA Proposed Rulemaking “Agriculture Water”

- The comment period on “Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption” is open until **November 15**.

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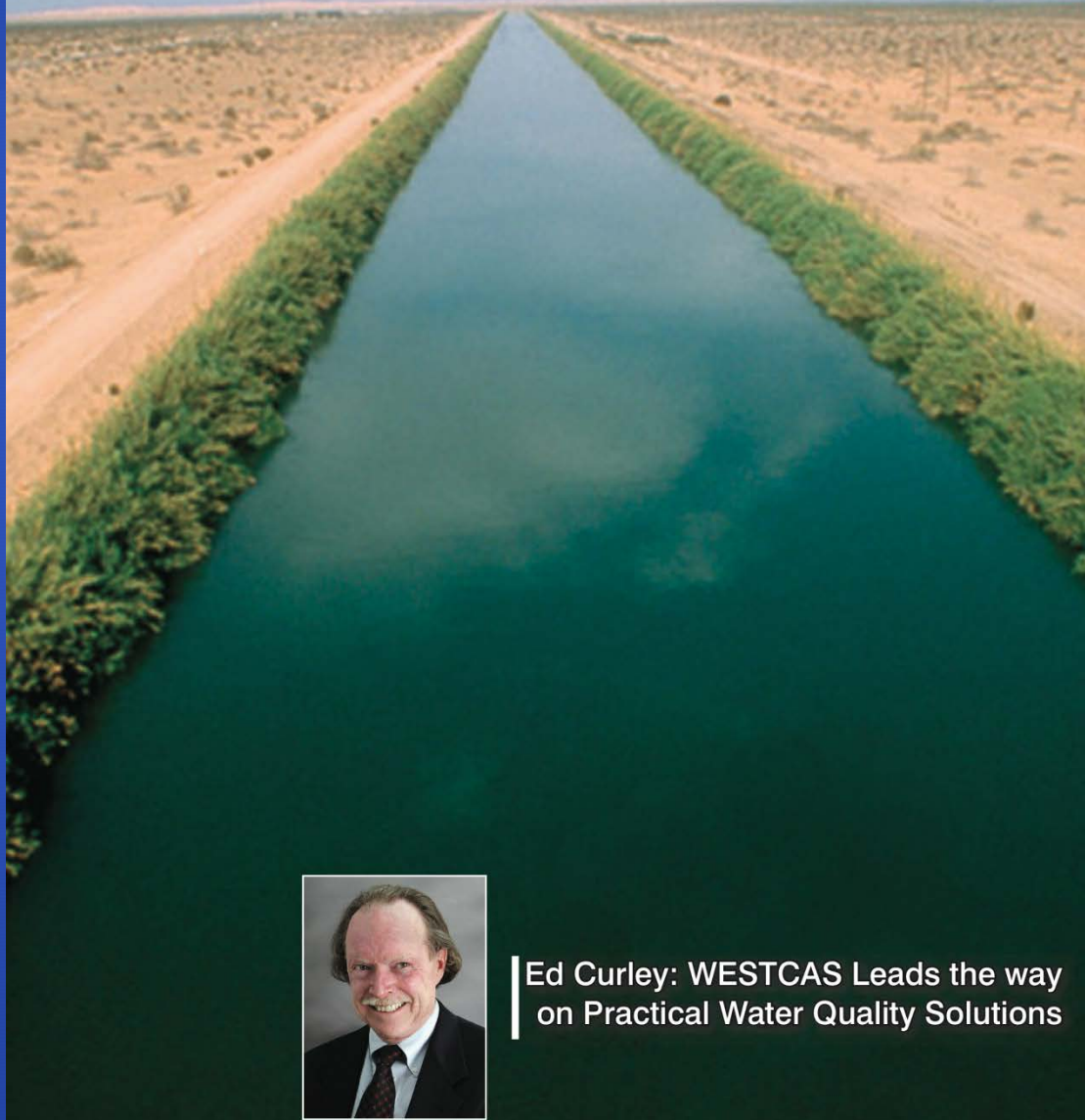
External Affairs Manager

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Ed Curley: WESTCAS Leads the way
on Practical Water Quality Solutions

Capitol Hill office in 2014

