

WESTCAS 2015 Fall Conference
October 28, 2015
Tucson, Arizona

D.C. Update

Hicks-Ray Associates



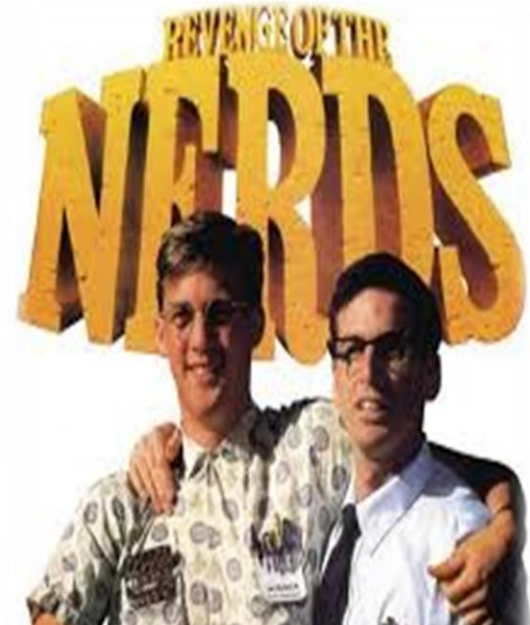
D.C. Update

Focus of Today's Discussion

1. Current Situation in Congress – *the chaos, deadlines & challenges*
2. Western Drought Bill – *Opportunities for WESTCAS*
3. FY16 Appropriations – *Riders & western water regulation/funding*

The Big Picture ... *What is happening in DC?*

The information we are about to impart can win you...



a bet at a "Nerd Bar,"

but it is impossible to discuss legislation or policy without having an overview of the "Big Picture"

The Big Picture...*looming deadlines*

*It wouldn't
be Congress
if there were
not looming
deadlines.*

This week:

the election of a new Speaker of the House



This week:

Continuing Resolution to keep Transportation



Next week:

Increasing the Federal Debt Limit



December 11:

CR for FY16 Appropriations expires

One week before Christmas with President Obama
pledging not to sign a further CR.

Time-limited *MUST* Decisions...

Congress faces the following critical deadlines...

Oct 29th –
Trans CR

Nov 1st –
Debt
Ceiling

Dec 11th –
CR Runs
Out💣

💣 President says he will
veto another CR, result:
Gov't shut-down

The Big Picture... Chaos or Discourse

Will we be treated to another Congressional display of chaos?



The Big Picture... Chaos or Discourse

Will we be treated to another Congressional display of chaos?



Or will we enter a whole new age in political *discourse*?



Turmoil at the Worst Time...

the Lack of House Leadership

It is very likely that Congressman Paul Ryan will be elected Speaker this week.

Let's quickly walk through the process

The politics of 218...



247 – Number of
Republicans

186 – Number of
Democrats

433



The politics of 218...



186 – Number of
Democrats

247 – Number of
Republicans

433



The election of a Speaker begins with a secret ballot
taken by the Republican Caucus.

Technically, all a Member needs is
50% plus 1 of the Caucus or 124
votes, to win the secret ballot.

The politics of 218...

But the actual election of the Speaker takes place in public on the House floor with all Members having a vote.



That means that you need 217 votes in the current House to win the election



The House “Freedom Caucus” made up of fiscally conservative Republicans consists of about 45 Members.



If the Freedom Caucus withholds its votes from a candidate for Speaker, that candidate can't win.

The politics of 218...



186 – Number of Democrats

247 – Number of Republicans

433



124 votes to reach a “Public Vote”

We know:

186 – Vote Against Rep Candidate

~45 – Members of Freedom Caucus

$$433 (D + R) - 186 (D) - 45 \text{💣}^* (FC) < 217$$

This is the reason for Congressman Ryan demanding a “super majority” of the Freedom Caucus support him before he advanced his candidacy.

💣 *The Pelosi threat – could a maneuver put Hoyer as Speaker if Rep can't decide?*

Meeting the Deadlines?

How will these alignments affect the coming deadlines?

\$ Major funding and policy issues are up for a vote.
"Hastert Rule" requires a majority of the House to pass a bill unless there are

If a significant number of Republicans vote for bills negotiated by the Democrats, it prevents that Leadership from looking to make up the difference.

Raising the debt ceiling and FY16 Appropriations are both contentious issues

The expiration of the FY16 CR comes with it the risk of a government shutdown two weeks before Christmas.

Passing Legislation... *Nuclear option & vetos*

The Reality of Gridlock

**Understanding the situation and
where WESTCAS can provide
input & influence**

US Senate... *by the numbers*

In the Senate, there are 54 Republicans and 46 Democrats.

A bill needs the support of 60 Members to be brought to the floor for debate.

As long as Senate Democrats "hang tough" this is very difficult to achieve.

Affiliation	Party		
	(Shading indicates majority caucus)		
	Democratic	Independent	Republican
End of previous Congress	53	2	45
Begin (January 3, 2015)	44	2	54
Latest voting share	46%		54%

Nuclear Option... *not a choice*

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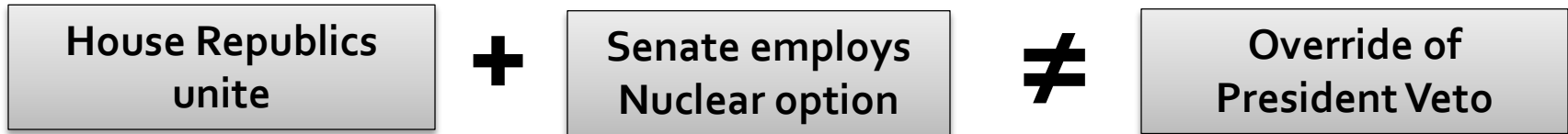
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Presidential Veto... *can't be stopped*



Even if Republicans stay unified in the House and even if the “nuclear option” is employed in the Senate, Hill Republicans still cannot overcome a Presidential veto on their own.



Requires 291 votes in the House and 67 votes in the Senate.

House Republicans at the moment cannot persuade 44 of their Democratic colleagues to override the President nor can their Senate counterparts convince 13 Senate Democrats.

Cooperation... *it is possible*

House Republicans
unite

+

Senate employs
Nuclear option

≠

Override of
President Veto

*So is there any
potential for the
parties to cooperate
together?*



Cooperation does happen...

how opportunities can emerge for WESTCAS

*On October 22, the full House **Transportation and Infrastructure Committee** adopted **HR 3763**, the \$325 billion reauthorization bill for surface transportation programs by a unanimous vote.*

- ✓ The T&I Committee Members span the full spectrum from the most conservative Members of the House to some of the most liberal. Yet they all voted the bill out of Committee.
- ✓ Earlier this summer the Senate Committee on Environment and Public Works also passed their version of the bill unanimously with the full Senate voting 65 to 30 to advance the bill.

WESTCAS Opportunities

To be discussed more at tomorrow's session

Western Drought Bill...

WESTCAS opportunity

Relevant for WESTCAS are the current Senate bipartisan attempts to fashion a drought bill.

Western Drought Bill...

WESTCAS *opportunity*

Takes of two parts bills:

1. California Congressman Valadao's HR 2898, the "Western Water Food Security Act"
2. Senator Feinstein's S. 1894, the "Emergency Drought Relief Act" and fashioning them into a single piece of legislation.

✓ Neither piece of legislation could pass on its own.

Senator Murkowski of Alaska in her role as Chair of the Senate Committee on Energy, and Natural Resources

+

Senator Maria Cantwell the ranking Democrat

Searching for ways to create a Western drought bill out of the ideas contained in these two bills.

Western Drought Bill...

WESTCAS on Title XVI reform

WESTCAS is taking a leading role in this effort including the recent signing of a letter concerning the expansion of the Bureau of Reclamation's Title XVI program.

The WESTCAS signature is the first among six pages of signatures of water agencies and associations from throughout the Arid West.

FY16 Appropriations

Riders and Regulations Collide

FY16 Appropriations... *Riders & Regulations*

Democrats are demanding additional FY16 funding for both domestic and defense spending.

Republicans want to trim government programs

Strong support for attaching Riders either to legislation raising the debt ceiling or to FY16 Appropriations bill.

Riders could address everything from defunding Planned Parenthood to stopping implementation of the WOTUS Rule

Additional Items or Discussion

Transition to WOTUS & Congress slides...

WOTUS Rule & Congress

Focus of Discussion

- 1. Riders & the options for the FY16 Appropriations Cycle**
- 2. How the stay issued by the 6th Circuit Federal Court may interact with Appropriations Riders.**

WOTUS Rule & Congress

—In addition to the numerous court challenges to the WOTUS Rule, Congressional Republicans have added “Riders” to FY16 Appropriations bills.

—This includes Riders in the FY 16 Interior and Environment Appropriations bill which funds USEPA and also the FY16 Energy and Water Appropriations bill which funds the Army Corps of Engineers.

Riders... *INCLUDED in bill language*

- ✓ It is significant that both the House and the Senate versions of the FY16 Interior and Environment Appropriations bills include WOTUS Riders.

"None of the funds made available in this or any other Act making Appropriations for Interior and the Environment for any fiscal year may be used to develop, adopt, implement, administer or enforce any change to the regulations and guidance in effect on October 1, 2012, pertaining to the definition of waters under the jurisdiction of the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.), including the provisions of the rules dated November 13, 1986, and August 25, 1993, relating to said jurisdiction, and the guidance documents dated January 15, 2003, and December 2, 2009, related to said jurisdiction."

HR 2822, Section 422, page 122

S 1645, Section 421, page 135

- ✓ There is similar Rider language that also forbids the Army Corps of Engineers to, "develop, adopt, implement, administer, or enforce any change to the regulations and guidance.....".

Current Status...

QUESTIONS

1. Where does the FY 16 Appropriations process stand at the moment?
2. What are the prospects for completing work on the 12 subcommittee bills, and
3. what are the chances a WOTUS rider may be retained in any final version of the bill?

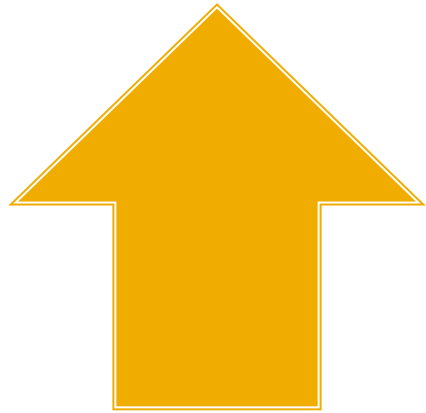
—Of the 12 different Appropriations Subcommittee bills, the full House and passed 6 and the Senate 0 (ZERO)

—The current Continuing Resolution keeping the government open expires on December 11 and President Obama has promised he will not sign another.

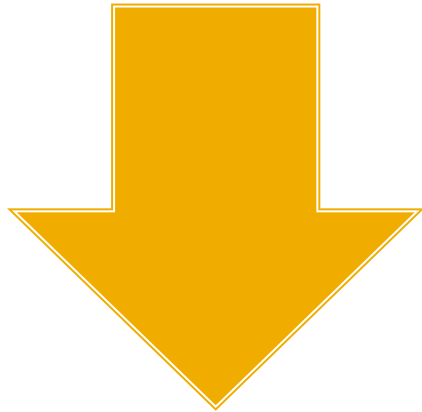
—That means that some sort of agreement has to be hammered out amongst Congressional Republicans and Democrats and the White House.

—This is essential since Hill Republicans cannot defeat a Presidential veto and the White House/Democrats are assuming that the public will blame Republicans for any shutdown.

What Options?



1) A Continuing Resolution for the entire year



2) Omnibus Appropriations bill.

At the moment, many believe it will be Option #1.

Other Key Points...

- WOTUS Riders were inserted into Appropriations bills earlier this summer before the WOTUS Rule became final and before the stay issued by the 6th Circuit Federal Court.
- How long will it take for the decision of the 6th Circuit Court to Be appealed?
- Why should the Congress Appropriate money for several Federal agencies, most especially USEPA and the Corps, to implement WOTUS before the court challenge is resolved?
- Does this weaken the Obama veto threat? How will an Administration that has less than 15 months left in office react? Will they shut down the government based on WOTUS?

Further Discussion/Questions

Transition to Thursday, DC Actions presentation

Thursday, October 29, 2015

WESTCAS

D.C. Plan of Action

Hicks-Ray Associates



Quick Updates

- Paul Ryan elected the 54th Speaker of the House this morning (at 45, he's second youngest in history). Vote was 236 (>218 majority) to 184 (for Nancy Pelosi). A majority of the Freedom Caucus voting for Ryan.
- "Budget Deal" passed yesterday in the House (266 to 167). Suspends the debt limit to 2017; adds \$80 billion in domestic and defense spending; expected to move quickly (today) in Senate; Treasury says deadline on increasing debt limit is now Nov. 3rd.

Consideration of DC Actions

	Issue	Comment	WESTCAS Action(s) for Consideration
1	FY16 Appropriations/Funding for Western water		
	USACOE funding	Both Appropriations Cmt have proposed increased funding for water programs	<ul style="list-style-type: none"> Letter to Approp Cmt in support
	US BOR funding		
	Funding support for SRF	Interior appropriation bill marked up	<ul style="list-style-type: none"> Letter to request continued funding of SRF. Needs to address the 'backlog' concerns of the Cmt
2	WOTUS Rider in FY16 Appropriations bills	<p>As discussed, Riders in bill language;</p> <p>Check status of Court action but doubtful for resolution by Oct 1 next year</p>	<ul style="list-style-type: none"> Letter to encourage keeping Riders in place
3	Selenium/Regulatory	Specific issues on Selenium; EPA consideration of cost/benefit	<ul style="list-style-type: none"> Collaboration Letter(?) to Commerce/Science Technology

	Issue	Comment	WESTCAS Action(s) for Consideration
4	Western Drought Bill	<p>Note WESTCAS letter to support including Title XVI reform;</p> <p>Other requests to include?</p>	<ul style="list-style-type: none"> Letter of support, written from a WESTCAS, arid-west water perspective – water quality, regulation, and Title XVI.
5	New WRDA bill	<p>Anticipated based on discussions with T&I Cmt staff a new WRDA next year;</p> <p>Items to request?</p>	<ul style="list-style-type: none"> Alert T&I staff on WESTCAS issues or requests.
6	Lacey Act Legislation	<p>Update on proposed legislation; Resolving water supply transfers and the Lacey Act is overdue.</p>	<ul style="list-style-type: none"> Support after bill is introduced.
	Other?		
	Other?		