D.C. Update

Hicks-Ray Associates
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...

but it is impossible to discuss legislation or policy without having an overview of the “Big Picture”
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 29\textsuperscript{th} – Trans CR

Nov 1\textsuperscript{st} – Debt Ceiling

Dec 11\textsuperscript{th} – CR Runs Out

President says he will veto another CR, result: Gov’t shut-down
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?
It is very likely that Congressman Paul Ryan will be elected Speaker this week.
The politics of 218...

247 – Number of Republicans

186 – Number of Democrats

433
The politics of 218...

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.

186 – Number of Democrats

247 – Number of Republicans

433
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

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 (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 and elections impact coming deadlines?

$ Major funding and policy bills require a fairly unified Republican vote.

“Hastert Rule” requires the Leadership not to bring a bill to the floor unless there are already enough Republican votes to pass it.

If a significant number of the Freedom Caucus refuse to vote for bills negotiated by the Republican Leadership, then the “Hastert Rule” prevents that Leadership from looking to House Democrats 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.
Understanding the situation and where WESTCAS can provide input & influence
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.
The so-called "nuclear option" allows a bill to be brought to the floor with just 51 votes.

But both Republicans and Democrats have proven reluctant to use the "nuclear option" for the same reason that American and the Soviet Union didn't use nuclear weapons.

And that reason was that both sides were armed with nukes. Either side that used these weapons faced full-scale retaliation.

Should Democrats regain the majority in the Senate in 2016, they could pay their Republican counterparts back with interest by also involving the nuclear option.
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? *Yes!*
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
Relevant for WESTCAS are the current Senate bi-partisan 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.*
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
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.
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………”. 
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.

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?
What Options?

1) A Continuing Resolution for the entire year
2) Omnibus Appropriations bill.

At the moment, many believe it will be Option #1.
—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
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
<table>
<thead>
<tr>
<th>Issue</th>
<th>Comment</th>
<th>WESTCAS Action(s) for Consideration</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FY16 Appropriations/Funding for Western water</strong></td>
<td>USACOE funding</td>
<td>Both Appropriations Cmt have proposed increased funding for water programs</td>
</tr>
<tr>
<td>US BOR funding</td>
<td></td>
<td>• Letter to Approp Cmt in support</td>
</tr>
<tr>
<td>Funding support for SRF</td>
<td>Interior appropriation bill marked up</td>
<td>• Letter to request continued funding of SRF. Needs to address the ‘backlog’ concerns of the Cmt</td>
</tr>
<tr>
<td><strong>WOTUS Rider in FY16 Appropriations bills</strong></td>
<td>As discussed, Riders in bill language; Check status of Court action but doubtful for resolution by Oct 1 next year</td>
<td>• Letter to encourage keeping Riders in place</td>
</tr>
</tbody>
</table>
| **Selenium/Regulatory** | Specific issues on Selenium; EPA consideration of cost/benefit | • Collaboration  
• Letter(?) to Commerce/Science Technology |
<table>
<thead>
<tr>
<th>Issue</th>
<th>Comment</th>
<th>WESTCAS Action(s) for Consideration</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Western Drought Bill</strong></td>
<td>Note WESTCAS letter to support including Title XVI reform;</td>
<td>• Letter of support, written from a WESTCAS, arid-west water perspective – water quality, regulation, and Title XVI.</td>
</tr>
<tr>
<td></td>
<td>Other requests to include?</td>
<td></td>
</tr>
<tr>
<td><strong>New WRDA bill</strong></td>
<td>Anticipated based on discussions with T&amp;I Cmt staff a new WRDA next year;</td>
<td>• Alert T&amp;I staff on WESTCAS issues or requests.</td>
</tr>
<tr>
<td></td>
<td>Items to request?</td>
<td></td>
</tr>
<tr>
<td><strong>Lacey Act Legislation</strong></td>
<td>Update on proposed legislation; Resolving water supply transfers and the Lacey Act is overdue.</td>
<td>• Support after bill is introduced.</td>
</tr>
<tr>
<td>Other?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>