



Introduction by Jolene Walsh, WESTCAS Legislative Chair

Washington Legislative Report

Hicks-Ray Associates

Discussion

Federal Issues

- **Introductions**
- **Recent Submittals**
 - USACE Regulatory Reform
 - Title XVI Program (WIIN)
- **FY 18 Appropriations**
- **Pending**
 - Water Supply Rule
 - Water conservation rebate

- **Federal Issues Tracking Table**
- **Appointments**

REPORT ON AFTERNOON SESSION:

**COMPLETING WESTCAS "POLICY
STATEMENT" with SUPPORTING
DOCUMENTS**



Take Note

- Title XVI Competitive Grant Program
- Water Conservation Rebate Efforts
- USACE Regulatory Reform / “Water Supply Rule”
 - Relates to States’ primacy over water



Preamble

The Corps of Engineers (Corps) is a unique Federal chain of command (ASA/CW), Corps Headquarters Offices, with a large number of regulation and guidance execution and implementation of its Civil Works documented in 32 CFR, 33 CFR, and 30 CFR, sp number of separate Policy Guidance Memoranda Design Guides and Pamphlets, Engineering Construction Engineering Manuals that are all interconnected based on project specific authorizations pre organization, with execution at the District Headquarters levels, normal operations re Corps and the public it serves. The combination transparency, significant project cost and a loss of trust by non-Federal sponsors involved in execution of the Corps' Civil should implement to reduce the burden

The Association of California Water Agencies (ACWA) represents 430 public water agencies that together provide over 90 percent of the water delivered in California for residential, agricultural, and industrial use. ACWA member agencies have a long history of working closely and collaboratively with the U.S. Army Corps of Engineers (Corps). ACWA appreciates this opportunity to provide input on regulatory reform and supports the comments submitted by the Texas Water Conservation Association. ACWA also offers the additional points below for your consideration.

Increase Decision-making at District Level
ACWA recommends the Corps revise decision making

Decision-making at District Level
ACWA recommends the Corps review all regulations to identify opportunities to increase decision making authority at the District Commander level. Similar to the Regulatory Permitting process (33 CFR parts 320 through 324, 327, and part 330), Civil Works Projects are unique based on the documentation supporting the Congressional authorization, and cannot be implemented based on "cookie-cutter" approaches. Guidance for implementation of Civil Works projects should provide sufficient latitude and leeway for District Commanders to use appropriate judgment in the interpretation of policy. Increasing the decision making authority at the District Commander level will minimize project cost overruns and reduce delays in obtaining higher authority approval.

Bringing Water Together

Corps Regulatory Reform

Review of Pertinent Comments


- Submitted – October 18th
- Key Comments –
 - General Recommendations on Reform
 - CWA § 404 Permitting Reform
 - Improving Funding Guidance/Efficiency
 - 33 USC § 408 Permitting Reform
- Future Rulemaking & WESTCAS Contribution



Title XVI – Competitive Grant Prgm


Part of the WIIN Act signed into law by President Obama on December 16, 2016.

- Section 4909 of the law states:



“The Secretary (of Interior) shall establish a competitive grant program under which the non-Federal project sponsor of any project determined by the Secretary to be feasible...shall be eligible to apply for funding for the planning, design and construction of the project...”

- The Secretary of the Interior will give priority to projects that:



Have “been identified by the United states Drought Monitor as experiencing severe, extreme, or exceptional drought at any time in the 4 year period before such funds are made available.”



Title XVI Competitive Grant Program

Unexpected Outcome:

Bifurcated Program



WIIN
Competitive

The diagram consists of two large, stylized yellow arrows pointing in opposite directions. The left arrow points left and contains the text 'WIIN Competitive'. The right arrow points right and contains the text 'Existing Authorization'. The two arrows are connected at their inner ends, forming a continuous shape that represents a bifurcated or split program.

Existing
Authorization

Jolene Walsh & EMWD / WESTCAS & Steve Bigley

Michael Thornton,
General Manager
San Eljo Joint Powers
Authority



Michael J. Bardin,
General Manager
Santa Fe Irrigation District



Daniel R. Feron,
General Manager
Santa Margarita Water
District



James M. Oliver
General Manager,
Tarrant Regional Water
District



Dean Robbins
General Manager
Texas Water Conservation
Association



Kevin Ward
General Manager
Trinity River Authority of
Texas



Francis Delach,
Interim General Manager,
Upper San Gabriel Valley
Municipal Water District



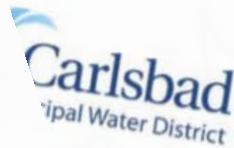
Glenn Prium,
General Manager
Vallecitos Water District



Dale A. Fisseler, P.E.,
City Manager, City of Waco
Water Utility Services



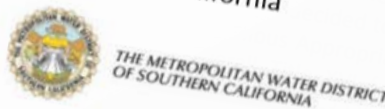
General Manager
Carlsbad Municipal Water
District



Paul A. Cook, P.E.
General Manager
Irvine Ranch Water District



Jeffrey Kightlinger,
General Manager
Metropolitan Water District
of Southern California



Paul D. Jones II, P.E.,
General Manager
Eastern Municipal Water
District



Richard F. Harasick,
Senior Assistant General
Manager – Water System
Los Angeles Department of
Water and Power



Paul J. Bushee,
General Manager
Leucadia Wastewater District



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Title XVI Programs Comparison

FY18 Energy and Water Appropriations funding for Title XVI is for a total of \$35,000,000

"OLD" PROGRAM

- FY 18 Approp = \$25M
- No Eligible Prj

Question for WESTCAS discussion: "Are the remaining projects still the most cost effective + national interest?"

WIIN PROGRAM*

- FY 18 Approp = \$10M
- No Eligible Prj = 37
- Cap on WIIN = \$20M
(subject to Congressional cap)

**Title XVI water reclamation and reuse program, -of the funding provided for this program, \$10,000,000 shall be for water recycling and reuse projects authorized in Section 4009 (c) of Public Law 114-122.*

"When Congress completes the FY 2018 Energy and Water Development Appropriations bill this fall, we urge you to advocate for the elimination of the bifurcated funding for Title XVI and support the inclusion of report language directing the Bureau of Reclamation to administer Title XVI as a single program in which every eligible project competes fairly for all appropriated funds."

**Report on ACWA sponsored meeting on October 5th
- Fred Hicks attended for WESTCAS**

FY18 Appropriations

The Decision in
December!



FY18 Appropriations

September
2017



December 8,
2017

CR

No FY18 Appro Subcmt Bills Approved
Targets mid-December as Critical Budget
Decision

The Decision in December

Christmas
Tree

Major Omnibus Bill



Kick d' Can

Another CR

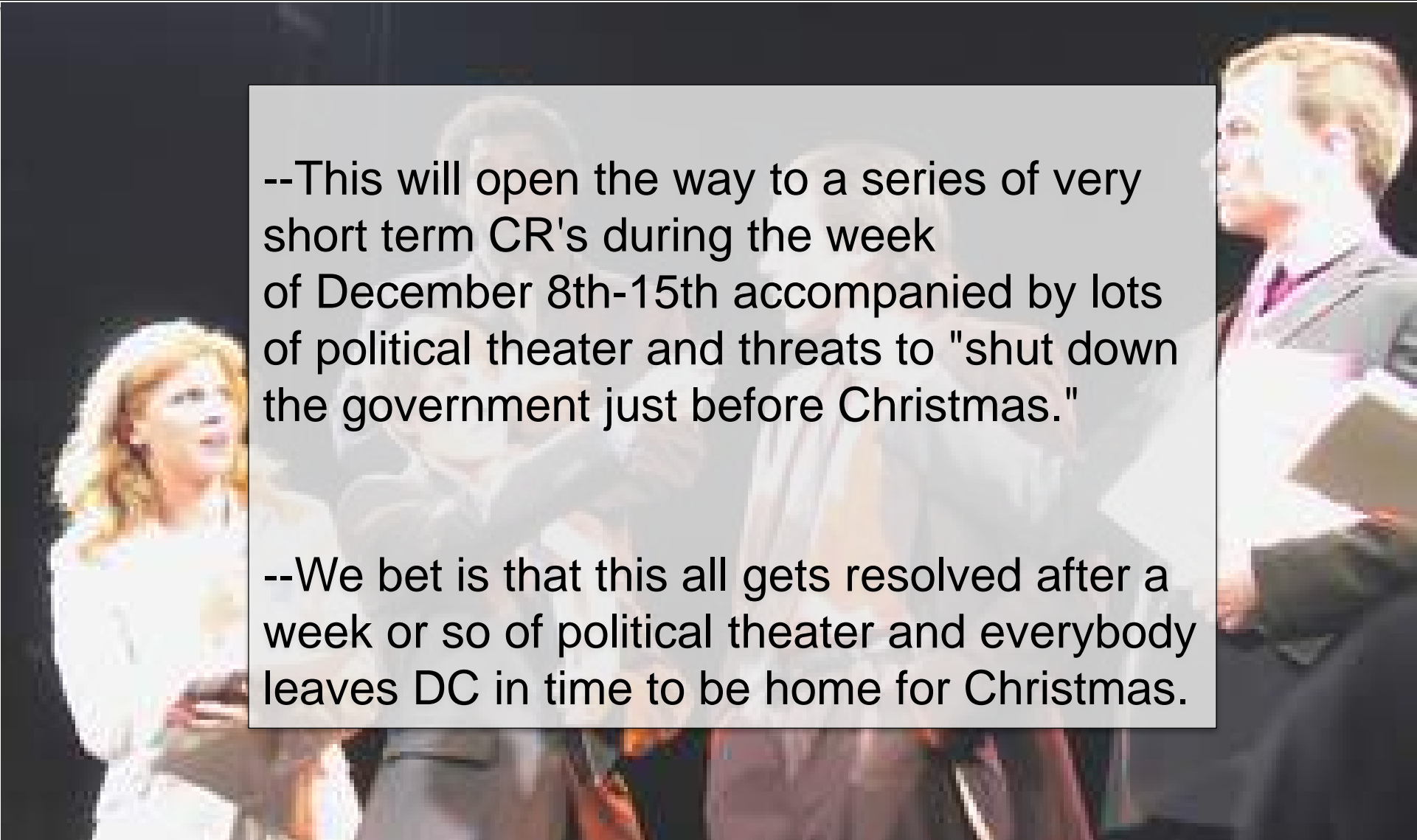


Lock & Key

Sequestration



What if NO Decision prior to December 8th?



--This will open the way to a series of very short term CR's during the week of December 8th-15th accompanied by lots of political theater and threats to "shut down the government just before Christmas."

--We bet is that this all gets resolved after a week or so of political theater and everybody leaves DC in time to be home for Christmas.

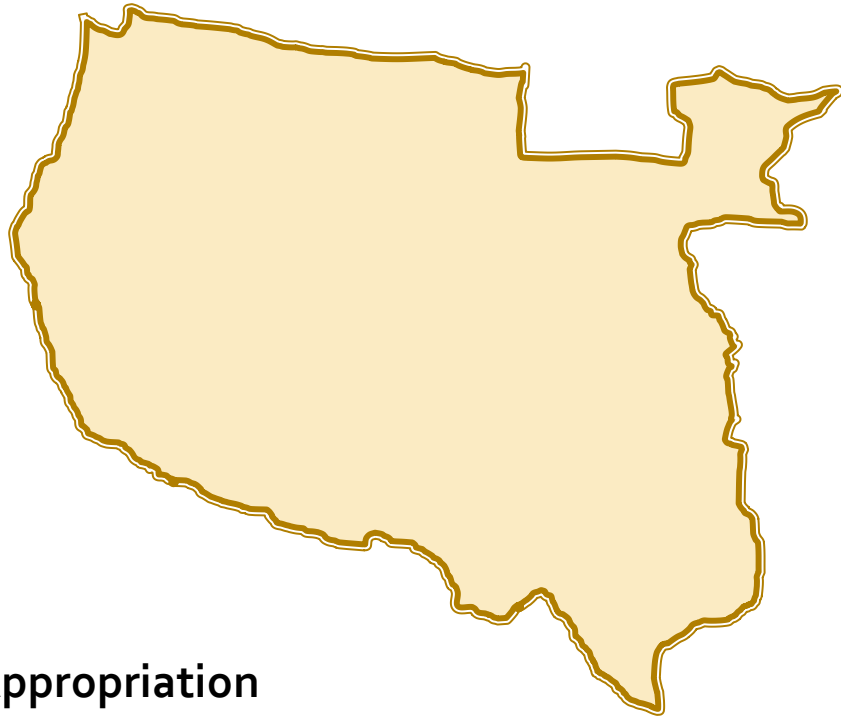
COE Water Supply Rule

COE Water Supply Rule

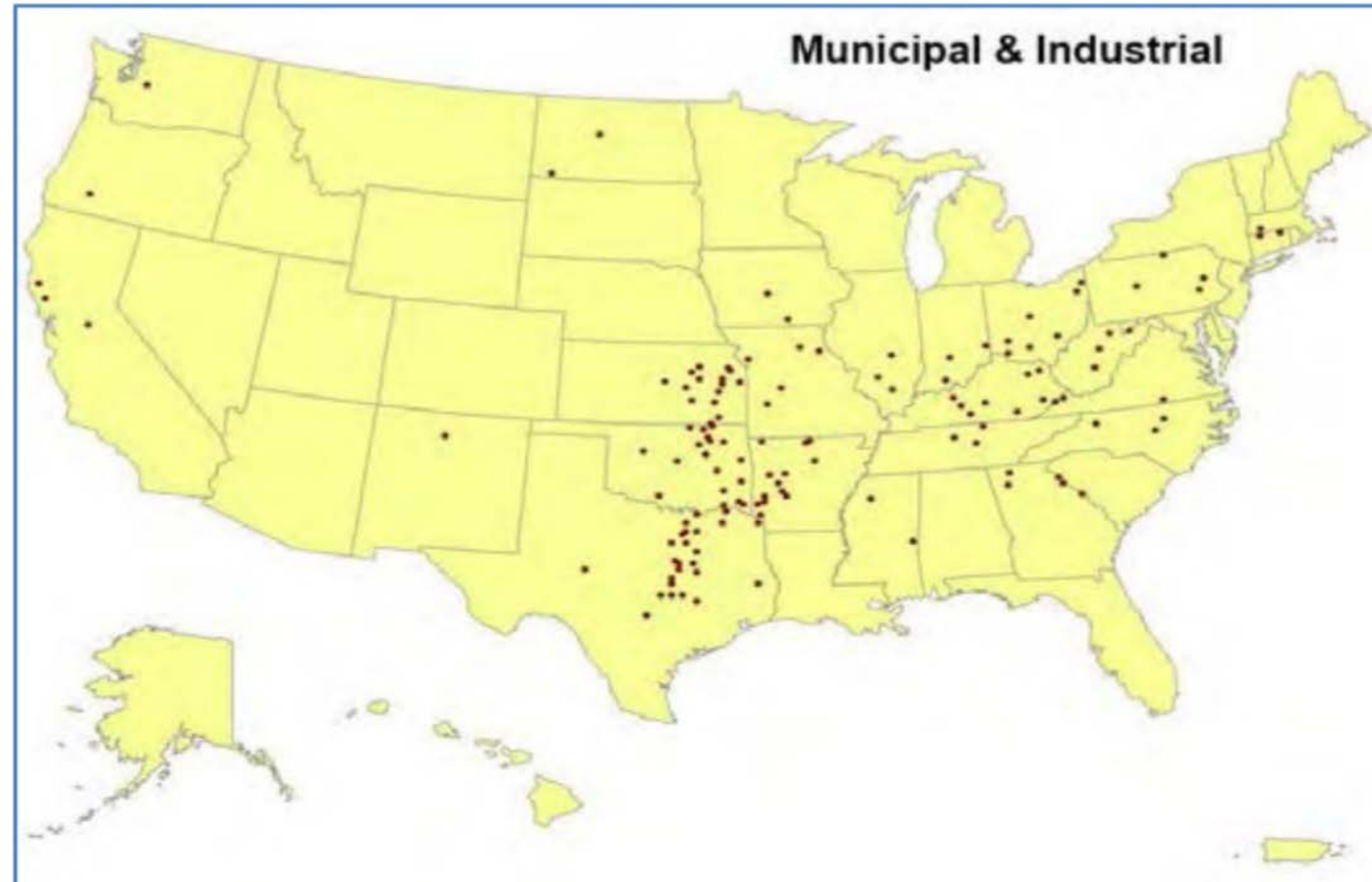
- Extension of 90 days
- Comments are due Nov 16, 2017
- Many water management agencies have identified measures that would impinge on State primacy
- State primacy and myriad of issues
- **BEST SOLUTION: Withdraw Rule!**

COE Water Supply Rule

Problem with its application to Western States



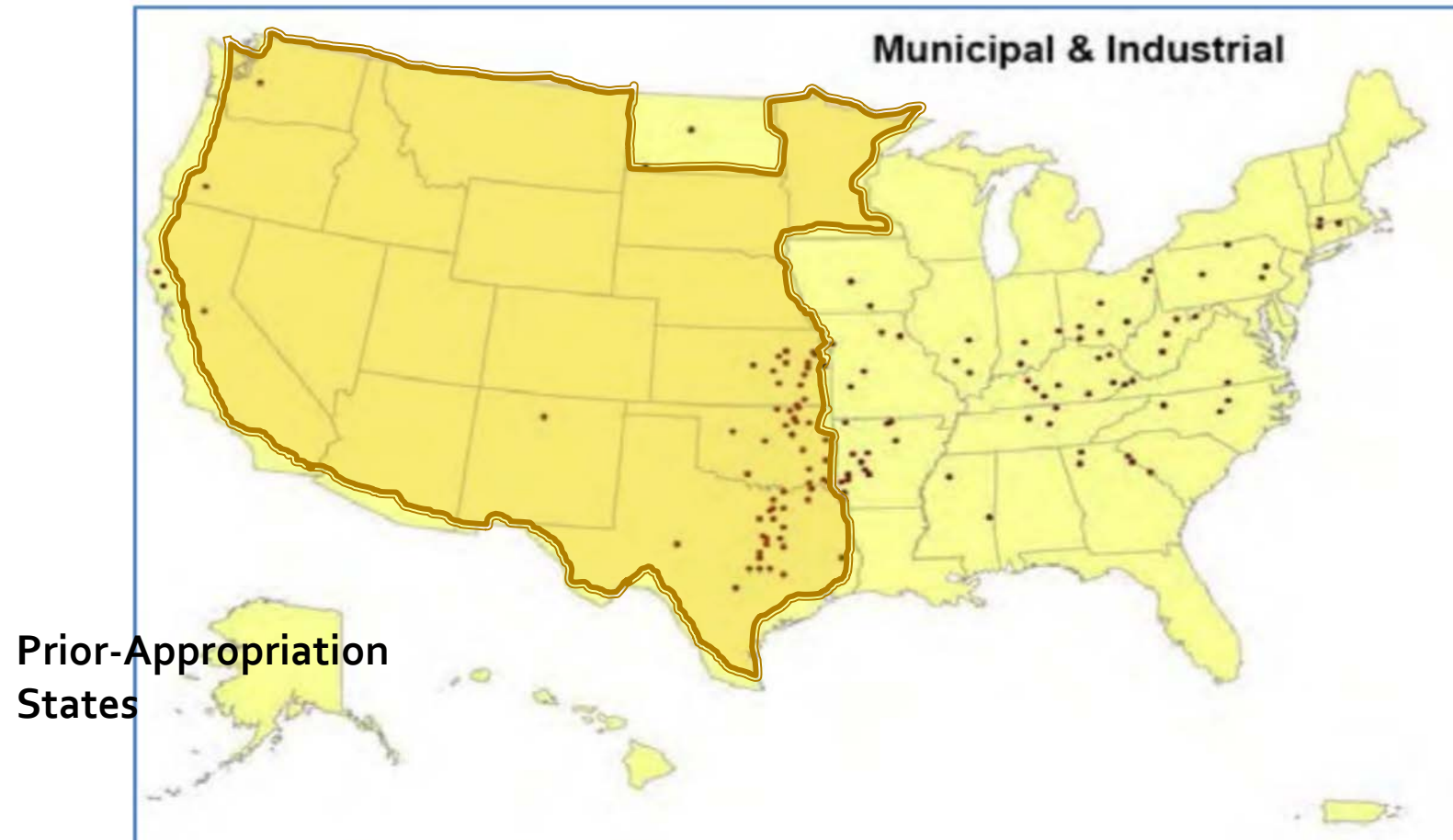
Prior-Appropriation
States



Location of Corps M&I WS Projects

COE Water Supply Rule

Problem with its application to Western States



Location of Corps M&I WS Projects

Why Water Supply Managers in West Concerned?

- Nationwide application
- State Primacy
 - Water Availability vs. Storage
 - Storage Accounting & Allocation
 - Federalism issues
- Stakeholder/district & division-level input
- Vague / ambiguous

Review of Comments – USACE Website (to date)

[illegible]

Water Conservation Rebate Efforts

WESTCAS Collaboration

...tracking issues of mutual concern to water managers in the West...

HOW TO KEEP IDENTIFY & TRACK

WESTCAS Tracking / Collaboration

Federal Issues Tracking Table

Issue #	PRIORITY	Federal Issue	RESPONSE TIMEFRAME					Monitor	PRIORITY			Other Notes
			Immediate	<30 Days lead	During 115th	Once 115th starts	Once 115th ends		High	Moderate	Low	
1		▷ Recent legislation to codify the Water Transfer Rule							x			Draft leg fix to CWA prepared; distribute to Tx Members
2	115th	▷ Legislation to reduce the five- to six-year exposure that Clean Water Act permits currently sustain to claims or lawsuits and related measures							x			Sec 404 permits remain vulnerable to lawsuit/legal challenges for 5-6-years after issuance; effort to include provision in WRDA2018 (discussions with T&I Cmt in July 2017)
3		▷ NEPA streamlining										Ongoing issue for continued WRDA actions; expand to CEQ or other?
		▷ Corps of Engineers issues:										
4	High	» Water Supply Rule										<ul style="list-style-type: none"> Comment period expanded to Nov 2017; concerns with State primacy of water rights and other issues for water supply managers; CDE rule addressing a regional problem with nationwide rule; consider Appropriations rider to stop action at least in SWD; Also visit with Sen Cornyn's staff on directing a colleague letter to the White House (prepare a briefing paper that Laura can use to gain support from other Senate offices) with the goal of the White House stopping action on the WS Rule
5		» Promoting										It is recognized that water supply is not a CDE function; however, for Texas and many SWD states, CDE reservoirs provide significant water supply storage. Therefore, efforts should be identified and undertaken to improve the status and priority at CDE.
6	High	» Regulatory P					x		ACWA, former COE	x		See FR notice, DUE 91917, Covers the entire gambit of CDE regulations.
		» Permitting										EWD Notice
7	Submitted	• Nationwide Permit										
8		• Streamlining, exped			x	x						
9		• Section 404 issues, incl			x	x						USACE Regulatory Reform (perhaps WRDA 2018) Issue
10		• Section 408 reviews			x	x						
11		» Levee safety issues				x						
12		» Weather forecasting/hydrology mea to reservoir operations				x			ACWA			
13		» Dam and levee safety and preventative maintenance				x						
14		» Non-federal sponsor cost and billing issues				x						
		▷ Funding issues										
15		» USGS - efforts to stabilize funding for the cooperative monitoring programs			x				x			DOI appropriations - effort for a line-item or other means to stabilize funding for federal share of USGS
16	115th	» Title XVI Grant Program funding (also possible program implementation issues)		x	x				x			Appropriations rider/manager's report and/or WRDA 18 Issue; see California efforts lead by EMWD, collaboration oppn
17		» WIFIA				x						
18		» Corps of Engineers Civil Works			x	x						
19		» EPA SRF			x	x						
20		» Innovative and alternative financing				x						
21	High	WOTUS - the two-step process (Step 1 comments due 9/27/17)		x					x			Comment period extended to Sept 27, 2017. The agencies do not intend to engage in substantive reconsideration of WOTUS definition (see

Emerging Issue to Watch
Municipal Tax Exempt financing status

Appointments



--**R.D. James** nominated to be Assistant Secretary for Civil Works. Nomination pending a hearing and a Senate vote. From New Madrid of the Mississippi River Commission and owner of cotton gins and grain.



--**Brenda** nominated to be Commissioner of the Bureau of Reclamation as Planning Director for the Salt River. Hearing earlier before Senate Energy and Resources Committee earlier this Summer and awaiting a confirmation vote.



--**David Ross** nominated to be USEPA Assistant Administrator for Water. October 4th hearing before EPW. Awaiting Committee vote and Senate confirmation.



--**Kathleen Hartnett White** nominated to head the Council on Environmental Quality pending a nomination hearing by Senate EPW and a nomination vote by the Senate.

WESTCAS Support Letters?

Questions
