



TEXAS FEDERAL PRIORITY WATER ISSUES

Identified and compiled by
TWCA Federal Affairs Committee/Texas Water Day 2014 Steering Committee

Issues Related to Federal Support

1. *Water Resources Development Act (WRDA)*

TWCA strongly supports the bipartisan efforts of the House and the Senate to reauthorize WRDA. We support provisions in the new water resources legislation that will help support Texas' continued working partnership with the USACE while providing new opportunities to meet the water needs for job creation, the environment, and economic growth of Texas. In anticipation of new water resources legislation, TWCA will seek to provide ideas and input to USACE concerning its "Implementation Guidance" of the new WRDA.

2. *Adequate and continued funding for federal-share of the USGS Cooperative Water Program (CWP) and National Streamflow Information Program (NSIP)*

The U.S. Geological Survey's NSIP and CWP programs provide scientific information to improve understanding of water resources and provide accurate, real-time information critical to Texas water managers for water supply, flood control, and other water operations throughout the state. The USGS cost sharing partnerships with the state and local

governments are long-established and effective. For nearly 100 years, Texas water resource agencies have relied on the data generated by the NSIP and CWP and utilized this information to enhance management of Texas valuable water resources.

3. *Budget issues for Corps of Engineers, Bureau of Reclamation, and EPA State Revolving Fund*

TWCA applauds the increases for water resources investment in the FY14 Omnibus Appropriations bill for the Corps of Engineers; the Bureau of Reclamation; and for EPA's Drinking Water and Clean Water SRF programs. Each of these increases will support programs that help Texas meet future water needs. Texas water managers look forward to providing their perspective on the FY15 Appropriations cycle, particularly with regard to investments in Corps, Bureau of Reclamation and USGS programs.

Issues Related to Regulatory Threats, Delays, and Expense

1. *EPA's Clean Water Act Rulemaking and the failure to complete the science*

TWCA is concerned that the CWA Rulemaking is another step by EPA to erode Texas' primacy over its waters. EPA's submitting the Rule to OMB, without public comment, and concurrently releasing the supporting science, the Science Advisory Board's Connectivity Report, is a major concern. EPA's decision to issue the Report for public comment after completing and submitting the proposed rule to OMB has the process reversed. The Report, when finalized, is intended to provide the scientific basis needed to clarify CWA jurisdiction; therefore, the public and scientific review of the Report should occur before proposing the rule.

2. *Endangered Species*

Citizen and special interest group lawsuits under the ESA threaten Texas' long-established water management as well as Texas' ability to carry-out

duly delegated functions such as NPDES permitting. Criteria for lawsuits should be more reasonable and based on credible and complete science. Congress should require the US Fish & Wildlife Service to be pro-active and transparent by preparing comprehensive action plans and raise the bar for filing and pursuing citizen lawsuits. We support S. 19/HR 1314 introduced by Senator Cornyn and Representatives Flores, Carter, Conaway and Thornberry which address this issue.

3. *Surplus Water Rule – USACE*

TWCA understands that the USACE is undertaking rulemaking with regard to managing and selling "surplus water." Texas water managers are not clear on the intent or status of this rule. There is a concern that the rule, perhaps inadvertently, may infringe on state primacy or established water supply or hydropower operations associated with the many USACE reservoirs in Texas. Texas water managers are



requesting an opportunity to be at the table and have input from the non-federal sponsors' and state's perspective before the Rule is promulgated. Opening the process to the non-federal sponsors will improve the outcome and avoid potential confrontation regarding complex Texas water right issues.

4. *Principles Requirements & Agency Guidelines (PR&G)*

The PR&G should establish a clear, concise and workable framework for the development of federal projects needed to support the national economy, create jobs and provide for environmental stewardship. The CEQ's final P&R and the draft Interagency Guidelines miss the mark. For this reason, the Administration should set aside the current PR&G and take steps to ensure that the Principles and Guidelines are developed in accordance with the directive in WRDA 2007 in an open and fully transparent manner.

5. *Mexico Water Deficit Water Deliveries*

In recent years, Mexico's water deliveries to the Rio Grande have fallen short of the 1944 Treaty requirement resulting in a water crisis for the Rio Grande Valley. Rules to ensure Mexico's critically needed water deliveries to the US are not delayed and are properly accounted. TWCA supports S. 1125/HR 2307 that help address this problem.

6. *S. 601 WRDA Provisions*

The WRDA version adopted by the Senate (S. 601) includes a number of troubling provisions. Texas water managers are hopeful that the Conference will recognize those issues and work toward a resolution. Particularly troublesome is the major shift in federal water policy that will result from the project selection provisions. No longer will Congress have a direct role in project selection or support. Economic and job creation benefits will become secondary considerations. A number of other S. 601 provisions, including Section 2014, cannot be supported by Texas water managers.

7. *Levee Safety Issues – position on legislative reforms*

Levees help protect life, property and commerce along the Texas Gulf Coast and in critical urban, agricultural and industrial zones along major river systems. The pending WRDA and Homeowner Flood Insurance Affordability Act (HFIAA) each contain impactful policy changes for levee-protected communities. We advocate the following legislative outcomes:

WRDA

Support the House version of Levee Safety provisions (§126) that largely limit increased Federal process and an expansive new Corps Levee Safety bureau;

Support the Senate provisions on levee vegetation management (§2020) and system-wide improvement (§2041) while directing reinstatement of Corps levee certification services at PL84-99 levee systems;

Support an approach that clarifies Fed and non-Fed roles such that (a) Corps project involvement is driven by economic return, and (b) State and local actors maintain plenary responsibility for life safety. Oppose the Senate's 2:1 funding ratio for new Corps standard-setting and governance over levee improvements.

Biggert-Waters '12 Flood Insurance Rates

Support efforts to:

- Minimize individual property owner hardships;
- Expedite affordability analyses/solutions;
- Require FEMA to account for viable flood control structures; and
- Improve map accuracy.

8. *Invasive Species*

US Fish and Wildlife Service enforcement of the Lacey Act must not be used as a pretext for interrupting long-established water supply arrangements. This policy has already jeopardized the water supply for millions of Texans, the estimated impact being nearly a third of otherwise available water supply during the recent drought of record. Proven methods to transport and completely remove invasive species must be recognized by USFWS policy. Proposed Categorical Exclusion to fast-track the listing of invasive species under the Lacey Act must not advance until USFWS ensures that Categorical Exclusion will not be allowed where a water supply is involved.