ROBERT A. BRIANT, JR.
Chairman

October 2, 2014

CONGRESS PASSES CONTINUING RESOLUTION AND RECESSES FOR NOVEMBER ELECTIONS

Both the U.S. House of Representatives and the U.S. Senate passed the "Continuing Resolution of 2015" which authorizes appropriations for federal Fiscal Year 2015 through December 11, 2014. The measure will provide funds for all federal programs at the federal FY 2014 levels. This is good news for the Clean Water and Drinking Water SRF construction programs.

Leading up to Congressional action to pass the Continuing Resolution of 2015, the House Appropriations Committee and the Obama Administration set 2015 federal funding levels for Clean Water SRF at $1.018 billion and Safe Drinking Water SRF at $757 million. For federal FY 2014 Clean Water SRF was capitalized at $1.448 billion and the Safe Drinking Water SRF was funded at $906 million. The House and the Obama Administration's proposal will result in funding cuts of $430 million (29.69%) to the Clean Water SRF and $150 million (16.55%) to the Safe Drinking Water SRF.

Following the House Appropriations Committee's actions, the Senate Appropriations Committee released its federal FY 2015 Interior Appropriations bill. The Senate measure restores full funding for the Clean Water SRF at $1.448 billion and Safe Drinking Water SRF at $906 million. As in previous years, the Senate's annual appropriations have prevailed.

Congress is expected to return to Capitol Hill the week of November 15th for its "Lame Duck" session. Issues that need to be addressed during the "Lame Duck" session will most likely be decided along the party election results. During this time Clean Water Construction Coalition representatives will continue to advocate for the Senate appropriations funding levels.

U.S. HOUSE AND SENATE PASS ENERGY AND WATER APPROPRIATIONS BILL

Congressional Appropriation measures to fund the Army Corps of Engineers Civil Works program have been passed by the U.S. House and the Senate Appropriations Committee. The increased funding levels are the result of the new Water Resources Reform and Development Act law which was passed by Congress and enacted by the President.

The House FY 2015 Energy and Water bill funds the Corps program at $5.5 billion with $1.7 billion earmarked for its construction program and $2.9 billion for maintenance and operations. The Senate Appropriations Committee bill provides $5.134 billion with $1.421 billion for construction, and maintenance and operations receiving $2.8 billion.

In addition to the above noted Army Corps appropriations, the WIFIA is currently being developed and that program will provide additional investments in water related construction projects.

FEDERAL ADVOCATES OCTOBER REPORT

Attached with this advisory is Federal Advocates October Report.

Federal Advocates Inc.

1701 Pennsylvania Avenue
Suite 300
Washington, DC 20006
Phone: (202) 351-6855
Fax: (202) 351-6855
www.federaladvocates.com

October 2014 Insights

Note: Congress has recessed until Nov. 12.

FY15 Interior Appropriations Bill

The Congress passed a Continuing Resolution funding the government at FY14 levels through Dec. 11. What happens after that will depend, in part, on the results if the election. The two scenarios are to finish all or some of the FY15 appropriations bills by the end of the year or pass another CR until sometime early next year.

To review, on August 1, the Senate Appropriations Committee released a draft of its FY15 Interior Appropriations bill. Included are $1,448,800,000 for the Clean Water SRF and $906,000,000 for the Safe Drinking Water SRF, the FY14 or current levels for both. The Senate has been our saving grace on funding. Absent action at some point by the Senate to increase SRF funding over the FY14 levels, a CR funding both SRF's at the FY14 level would not be bad. No markup schedule on the Senate bill to date.

As previously reported, on July 23, the House Appropriations Committee reported its version of the FY15 Interior Appropriations Bill (H.R. 5171). The bill provides $1,018,000,000 (the President's budget number) for making capitalization grants for the Clean Water State Revolving Funds (@ $430M below the FY14 level) and $757,000,000 (also the President's budget number) for making capitalization grants for the Drinking Water State Revolving Funds (@$150M below the FY14 level), with the proviso that not less than 20 percent of the funds made available for CWSRF grants shall be used for projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities, and also with the proviso that funds made available for DWSRF grants may, at the discretion of each State, be used for projects to address green infrastructure, water or energy efficiency improvements, or other environmentally innovative activities. In justifying/defending funding levels below FY14, the Budget states that it "proposes a reduction to focus on communities most in need of assistance and continuing to allow financing of approximately $6 billion annually in wastewater and drinking water infrastructure projects. Nearly $60 billion has been provided for the programs to date, including over $21 billion since 2009. Going forward, EPA will continue efforts to target assistance to small and underserved communities that have a limited ability to repay loans, including Tribes."

FY15 Energy and Water Appropriations Bill

To review, on July 14, the Senate Appropriations Committee reported its version of the FY15 Energy and Water Appropriations bill that would provide $5.134 billion in funding for the Corps of Engineers' Civil Works program. Investigations would receive $125 million, along with a recommendation for the 10 new study starts that were in the Administration's budget request plus 10 additional studies that are to be chosen by the Administration. Construction would be funded at $1.421 billion and includes the one new start in the President's request and provides for five additional new starts to be chosen by the Administration. Within the amounts recommended, $60 million above the budget request of $169 million is provided for inland waterways projects. Mississippi River and Tributaries would receive $305 million, and operation and maintenance would be funded at $2.8 billion, including over $1.06 billion from the Harbor Maintenance Trust Fund.

On the House side, it's FY15 Energy and Water bill as passed provides funding at $5.5 billion. The bill includes $1.7 billion in the construction account, $115 million in investigations, $2.9 billion in operations and maintenance, and $260 million for MR&T program. The funding for the Assistant Secretary of the Army's office would be slashed significantly from $5 million to $2 million. The accompanying report takes the Administration to task for numerous things, and explains this cut as expressing its "dissatisfaction with the Administration's disregard of congressional direction."

The bill would prohibit spending any funds on the pending Waters of the United States rulemaking, and the report expresses the Committee's continued concern over the effort to update the Principles and Guidelines. Because the markup was based on the President's budget, funding for new projects and programs included in WRRDA, which was enacted after the budget request was unveiled, is not specified. How funds may be used for that purpose – as many of those items would be considered new starts - is not clear at this point. In this regard, the report states:

"Enactment of the Water Resources Reform and Development Act of 2014 (WRRDA) provides the Corps with many new and amended authorities and directives for civil works projects, programs, and activities, including the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA). The Committee believes these new authorities will require specific appropriations prior to implementation, but has not had sufficient time to evaluate each provision for funding for fiscal year 2015. In the meantime, the Corps is directed to provide the Committee with notification prior to obligating funds for any provision not requiring specific appropriations, as well as monthly updates on the status of implementing guidance in draft and final form."

FY15 Transportation Appropriations Bill

To review, on June 10, the House passed its version of the FY15 Transportation-HUD spending bill that would keep highway and aviation spending level, but apply cuts for rail, transit and transportation and community development grant programs. All told, the bill would provide $52 billion in discretionary spending for infrastructure and housing programs, a $1.2 billion increase from fiscal 2014 but $7.8 billion below the President's budget request. Appropriators provided a $5 million increase for the National Highway Traffic Safety Administration, to $824 million in FY15, and a $19.4 million increase for the Pipeline and Hazardous Materials Safety Administration, which would get $205.2 million under the legislation. But the bill is also likely setting up a fight with the Senate on the Transportation Department's TIGER grants, which would get only $100 million, a $500 million cut from FY14 and $1.15 billion less than Obama requested. Formula highway spending would stay level at $40.25 billion, contingent on passage of a new authorization bill before the 2012 highway bill expires Sept. 30. The Federal Aviation Administration would see a slight $7.3 million cut to $15.7 billion, but $446 million more than it requested, providing full funding for the NextGen upgrade of air traffic control systems at $852.4 million and the contract towers program at $140 million. For passenger rail, Amtrak would see cuts, while the Federal Railroad Administration's safety programs would see a small increase to $220.5 million, up $750,000 from FY14. While overall railroad spending would decrease $193 million next year to $1.4 billion, Amtrak would get $340 million as an operating grant, and another $850 million for capital needs. But appropriators rejected the railroad's proposal to break out its profitable Northeast Corridor, likely a fight that will be left to authorizers later this year. Transit systems would also see a $253 million cut in federal support to $10.5 billion in FY15, but would maintain $1.7 billion in "new starts" grants for big capital investments.

On June 5, the Senate Committee on Appropriations reported its version of the FY15 Transportation Appropriations bill. Subsequent to that, the bill was combined with the FY15 Agriculture and Commerce Appropriations bills for Floor action. The bill was pulled because of objection from the Minority that such an "omnibus bill" would hinder chances to offer amendments. The bill provides a total of $18.1 billion in discretionary budget authority for DOT for fiscal year 2015. The bill includes another $53.6 billion in limitations on obligations for DOT, for a total of $71.7 billion in budgetary resources for fiscal year 2015. This total level of budgetary resources is $536 million more than the fiscal year 2014 enacted level, which included $17.7 billion in discretionary budget authority and $53.5 billion in obligation limitations.

The bill is also $17.8 billion less than the funding levels included in the President's budget request, which included $13.7 billion in discretionary budget authority and $75.8 billion in obligation limitations. The President's budget relied more heavily on obligation limitations because it assumed that many programs would receive funding through new legislation to authorize highway, highway safety, public transit, and rail programs instead of through the appropriations process. Those programs had received $2.4 billion in the fiscal year 2014 omnibus appropriations law. Highlights of the bill include:

"TIGER" Grants: $550 million for grants to state and local governments to support a wide variety of transportation options, including roads and bridges, railroads, transit systems, and port infrastructure. The recommendation is $50 million below the fiscal year 2014 enacted level. The President's budget request had included $1.25 billion for this program, but it also assumed that the funding would be provided through new legislation authorizing surface transportation programs instead of the appropriations process.

Federal-aid Highways Program: $40.3 billion for the Federal-aid Highways program, which is equal to level enacted for fiscal year 2014. The bill is consistent with the Moving Ahead for Progress in the 21st Century Act (MAP-21), the most recent authorization law for federal surface transportation programs, and assumes that MAP-21 will be extended through fiscal year 2015. The President's budget request had included $47.3 billion for the highway program, but it also assumed that the funding would be provided through new legislation authorizing surface transportation programs instead of the appropriations process.

Rail Investments: $1.39 billion for Amtrak, which is consistent with the level of funding provided in fiscal year 2014. This level of funding will allow Amtrak to make investments in the state-of-good repair infrastructure projects and to operate a safe and reliable passenger rail network for the nation. The recommendation is $1 billion less than the budget request, which assumed the funding would be provided through new legislation authorizing surface transportation programs instead of the appropriations process.

Transit Investments: $11.1 billion for transit programs, $310 million above the fiscal year 2014 enacted level and $6.6 billion below the request. The President's budget assumed passage of a surface transportation bill that would fund most transit programs rather than the appropriations process. The bill includes $8.6 billion for formula grants, $36.5 million for research and technical assistance, and $150 million to continue modernizing the Washington Metropolitan Area Transit Authority. In addition, it provides $2.163 billion for the transit capital investment grants, an increase of $221 million to help communities build new rail and bus rapid transit capacity in California, Maryland, North Carolina, Colorado, Florida, Texas and other states. These investments help communities find solutions to road congestion, support economic development, manage population growth, and reduce air pollution

Automobile Safety: $834 million for the National Highway Traffic Safety Administration (NHTSA), which is $15 million more than the fiscal year 2014 level and $17 million less than the budget request. The increase in funding will allow NHTSA to make important investments in its safety defects analysis and investigation programs, and to improve the agency's ability to aggressively screen defect trends.

MAP-21 Reauthorization

On September 10, the Senate Commerce Committee held a hearing on "Freight Rail Service: Improving the Performance of America's Rail System." The hearing focused on rail service issues throughout the country, including congestion and locomotive and railcar shortages. Stakeholders discussed the impacts of rail service issues on various industries and the economy. The witnesses were: Arthur Neal, Deputy Administrator of the Transportation and Marketing Program at the Agricultural Marketing Service of the U.S. Department of Agriculture; Jerry Cope, Vice President of Marketing, Dakota Mill & Grain, Inc. on behalf of the National Grain and Feed Association; Calvin (Cal) Dooley, President and Chief Executive Officer, American Chemistry Council; Shane Karr, Vice President of Federal Government Affairs, Alliance of Automobile Manufacturers; and, Ed Hamberger, President and Chief Executive Officer, Association of American Railroads.

On September 16, the Senate Committee on Commerce, Science, and Transportation's Subcommittee on Consumer Protection, Product Safety, and Insurance held a hearing on "Oversight of and Policy Considerations for the National Highway Traffic Safety Administration," chaired by Subcommittee Chairman Claire McCaskill (D-MO). The hearing examined the implementation of the Moving Ahead for Progress in the 21st Century Act or MAP-21, as well as assessed the efficacy and needs of NHTSA's vehicle safety authority and its administration of highway safety programs. Witnesses were David J. Friedman, Deputy Administrator, National Highway Traffic Safety Administration; Joseph Comé, Deputy Principal Inspector General for Audits and Evaluations, Office of Inspector General, U.S. Department of Transportation; Jacqueline S. Gillan, President, Advocates for Highway and Auto Safety; Kendell Poole, Chairman, Governors Highway Safety Association; and, Robert Strassburger, Vice President, Vehicle Safety and Harmonization, Alliance of Automobile Manufacturers.

On September 17, the House Transportation and Infrastructure Committee's Panel on Public-Private Partnerships (P3 Panel) released its final report and recommendations on how to balance the needs of the public and private sector when undertaking P3s to finance the Nation's infrastructure. The Panel was tasked by Full Committee Chairman Bill Shuster (R-PA) and Ranking Member Nick J. Rahall, II (D-WV) with examining the current use of P3s across the Committee's jurisdiction – including all modes of transportation, public buildings, water, and maritime infrastructure. The Committee's Vice Chairman, U.S. Rep. John J. Duncan, Jr. (R-TN), led the P3 Panel, and U.S. Rep. Michael Capuano (D-MA) served as its Ranking Member.

"Billions of dollars of infrastructure needs in the U.S. are in search of funding, and well-executed public-private partnerships can enhance the delivery and management of infrastructure," Duncan said. "P3s cannot provide the sole solution to all of the Nation's infrastructure needs, but they can offer significant benefits, particularly for high-cost, technically complex projects that otherwise may risk dying on the vine."

Over the last six months, the Panel held roundtables, hearings, and meetings to identify the role P3s play in the development and delivery of transportation and infrastructure projects, consider whether P3s enhance the delivery and management of infrastructure projects beyond the capabilities of government agencies or the private sector acting independently, and focus on how to balance the needs of the public and private sectors when identifying, developing, and implementing P3 projects.

The final report makes recommendations to grow public sector capacity to better structure agreements and ensure the needs of the public sector are adequately protected. It also proposes improvements to traditional procurement processes to ensure better outcomes for all projects. The report includes a series of recommendations for breaking down barriers to P3s, and changes to federal programs to allow for partnerships to be more easily considered by states and localities. The report also recommends steps to ensure transparency and accountability for P3s, which is critical to fostering public support for such complex agreements. The Transportation and Infrastructure Committee will use the Panel's recommendations as a resource when considering future legislation.

To review, on August 8, President Obama signed into law (Public Law 113-159) the "Highway and Transportation Funding Act of 2014." The law would transfer approximately $10.8B from the General Fund into the Highway Trust Fund (HTF) - $8.8B into the Highway Account and $2.0B into the Mass Transit Account - to keep the HTF solvent and provide funding for highway and transit programs at current levels through May 31, 2015.

The cost to the General Fund would be offset by various "pay-fors", all of which are unrelated to transportation and most of which extend over 10 years. They include "pension smoothing", an extension of custom duties, and a transfer of $1B from the Leaking Underground Storage Tank Trust Fund (LUST). The bill also includes an extension of the MAP-21 authorization through May 31, 2015 at current funding levels, pro-rated for the eight-month length of the extension - October 1, 2014 to May 31, 2015.

Given this action, there is little likelihood of legislative action on reauthorization for the balance of this year.

Build America Infrastructure Investment Summit

On September 9, as part of the Build America Investment Initiative, the Obama Administration hosted the Infrastructure Investment Summit at the U.S. Department of the Treasury. At the Summit, over 100 leaders from industry, finance, philanthropy, and local and state governments convened with senior Administration officials to highlight the growth in the U.S. infrastructure market, build partnerships, and develop strategies for increasing investment in sectors like transportation, water, telecommunications, and energy. The Summit was by invitation only.

The Summit brought together global investment and advisory firms, dedicated infrastructure investors, international asset managers, utilities and construction companies, and pension funds collectively representing more than $50 billion of projected private capital investment in the U.S. infrastructure market over the next five years.

The federal government, local and state governments, philanthropists and others announced investments to expand infrastructure development. The Obama Administration and other stakeholders announced a series of investments and commitments at the Summit, including:

- A $950 million loan for the Orlando, Florida I-4 Ultimate highway project from the U.S. Department of Transportation, the largest loan ever completed for a public-private partnership from the TIFIA program;

- $518 million in loans for electricity infrastructure from the U.S. Department of Agriculture; and,

- The creation of a new partnership for infrastructure innovation by the Ford Foundation and Rockefeller Foundation.

The Department of Transportation and the Transportation Investment Center announced new tools and policies. This July, President Obama launched the Build America Transportation Investment Center at the U.S. Department of Transportation (DOT). The Center has already taken significant steps forward to advance best practices and promote innovative approaches and tools.

Private sector participants included:

- Global investment and advisory firms such as Blackrock, Blackstone, Carlyle Group, CIBC, Goldman Sachs, KKR, Morgan Stanley, and Oaktree Capital;

- Infrastructure investors including Brookfield Asset Management, CoBank-Capital Peak Asset Management, IFM Investors, JPMorgan Asset Management Infrastructure Fund, Macquarie Infrastructure Partners, Meridiam, and Ullico Infrastructure;

- International asset managers such as the Development Bank of Japan, Mitsubishi UFJ Financial Group, and Swiss Re;

- Utilities and construction companies including American Water, Fluor, and Walsh Group; and,

- Pension funds including the California State Teachers Retirement System, the Employment Retirement System of Texas, the Illinois State Board of Investment, and the Ontario Teacher's Pension Fund.

In addition to a growing pool of available private capital, the federal government, local and state governments, and philanthropists announced a number of investments and commitments to support U.S. infrastructure investment:

- I-4 Ultimate TIFIA Loan. On September 4, DOT signed a $950 million Transportation Infrastructure Finance and Innovation Act (TIFIA) loan for the I-4 Ultimate project, a 21.1 mile roadway through Orlando, Florida. The project reconstructs and expands the capacity of 21.1 miles of Interstate 4 through downtown Orlando, replacing or improving 15 interchanges, 71 existing bridges, and adding 4 new express toll lanes. This is the largest TIFIA loan ever completed for a public-private partnership. The project benefited from engaging with DOT early in the process and using a new, streamlined PPP process that includes a standard term sheet;

- $518 million in loans for electricity infrastructure. Today, the U.S. Department of Agriculture is announcing $518 million in loans for 22 electric projects around the country. More than $23 million of the funds are targeted for smart grid improvements, which better manage and increase efficiencies in our nation's electric system. The loans announced today will build or improve more than 5,600 miles of electrical line in rural areas;

- The creation of a new partnership for infrastructure innovation. On September 9, the Ford Foundation and the Rockefeller Foundation announced an initial joint investment of over $1 million to support innovations in U.S. infrastructure;

- $20 million for transit project planning;

- Municipalities highlighting long-term investments in water infrastructure. On September 9, 30 cities and public water utilities announced plans to collectively invest $233 billion in operating and improving their municipal water systems over the next ten years; and,

- This July, President Obama launched the Build America Transportation Investment Center at DOT. The Center is a one-stop shop for state and local governments, public and private developers, and investors seeking to utilize innovative financing strategies for transportation infrastructure projects. The Center is already helping to advance best practices and strategies to support U.S. infrastructure, building on recent Administration successes. Among other measures, the Center and DOT are:

    - Promoting tools and resources for innovative finance. The Build America Transportation Investment Center is providing a range of educational and technical assistance resources to support project sponsors who are considering PPPs and other forms of innovative finance. Today, the Department is releasing the first in a series of new model contract provisions to serve as a guide for highway toll concession PPP contract agreements. A subsequent guide in this series will address availability payment concession PPP contract agreements. The Department is also publishing a series of new "Project Highlights" that provide a plain language account of how project sponsors assembled the funding and financing necessary to complete public private partnerships;

    - Supporting PennDOT rapid bridge replacement. DOT recently approved measures to support the Pennsylvania Department of Transportation in pursuing replacement of more than 500 small bridges under a single, innovative PPP that bundles the projects to facilitate private investment. The project will benefit from both a $1.2 billion private activity bond allocation, as well as targeted flexibility with respect to NEPA implementation that will enable the developer play a significant role in ensuring compliance with environmental requirements; and,

    - Improving the permitting process. DOT continues to take steps to improve its permitting processes. For example, the Department has recently developed and deployed eNEPA, a secure, online collaboration and project development tool to make the environmental review process faster and more efficient. In addition, DOT is working to finalize a rulemaking that will address the use of 'categorical exclusions' and programmatic environmental analysis to speed up permitting for certain projects.

National Freight Initiative

On July 14, Congresswoman Janice Hahn (D-CA), Co-Chair of the Congressional Ports Caucus, introduced H.R. 5101, the "National Freight Network Trust Fund Act of 2014". The legislation (with 39 cosponsors) calls for transferring five percent of all import duties collected by U.S. Customs and Border Protection (calculated to be about $1.9B annually) into a new freight trust fund. Her goal is to use this bill to continue the freight funding discussion as the House Transportation and Infrastructure Committee starts to draft its MAP-21 reauthorization bill. Hahn's bill: operates as a competitive grant program in which the U.S. Secretary of Transportation makes the selections; requires a federal project cost share of 90 percent; names ports, states, and local and regional transportation bodies as eligible entities; names state freight plan projects and state transportation plan projects as eligible; specifies that funds can be used for connectors, regional freight projects, cross-border projects, on dock rail, and intermodal freight facility projects; and, requires state freight plans be updated every five years.

Status Update: Two additional cosponsors added since the last report

National Association of Manufacturers: Infrastructure Study

On September 23, the National Association of Manufacturers (NAM), via the University of Maryland, released a study which finds that a targeted and long-term increase in public infrastructure investments from public and private sources over the next 15 years will:.

- Increase jobs by almost 1.3 million at the onset of an initial boost;
- Grow real GDP 1.3 percent by 2020 and 2.9 percent by 2030;
- Create a progressively more productive economy, which, due to cumulative effects through time, will benefit from a $3 return on investment for every $1 invested in infrastructure by 2030; and,
- Provide Americans an increase in take-home pay after taxes—a $1,300 net gain per household by 2020 and $4,400 per household by 2030 (measured in 2009 dollars).

At the same time, the report reveals a decade of troubling trends in infrastructure formation, such as a 3.5 percent drop per year in the volume of highway, road and bridge investments as well as further sharp decreases in mass transit, aviation and water transportation infrastructure investment. Budget cuts over the past decade and the fact that current gas tax revenues can't keep up with needs are hampering economic growth and will eventually harm job creation, future productivity and the ability to compete head-to-head with companies all over the globe, the study asserts. Last year, NAM partnered with Building America's Future to survey manufacturers about their perspectives on the state of infrastructure in the United States. Some 70 percent responded that American infrastructure is in fair or poor shape and needs a great deal or quite a bit of improvement.

The study concludes by urging Congress to focus on long-term spending plans, which have been elusive since the recession of 2007, instead of a patchwork process; to explore all potential funding sources, including state and local governments; and, to campaign based on the data in the report for more spending on everything from roads and bridges to ports, inland waterways and the electrical grid.

WRRDA/WIFIA

On September 11, we discussed with Jordan Dorfman, Attorney-Advisor for EPA, implementation of WIFIA. Dorfman apparently has the lead on this effort. He confirmed that the agency will not need to complete the formal federal rulemaking process to implement the WIFIA program. He also stated that EPA conducted its first listening session and plans several others around the country to hear from interested parties about how to best implement the program. EPA has also setup an email, wifia@epa.gov, to provide information about the program. Lastly, he acknowledged that there were unique challenges to implementing the program, including the prohibition on the use of tax exempt financing in conjunction with WIFIA assistance and the need to deal with the so-called “springing lien” provision.

To review, on June 10, the President signed into law (Public Law 113-121), the “Water Resources Reform and Development Act of 2014.” Of particular interest in terms of providing future funding opportunities is the newly created WIFIA (“Water Infrastructure Financing Innovation Act”) program.

WIFIA provides loans and loan guarantees to fund various infrastructure projects. It is modeled after the TIFIA loan program for surface transportation projects within the U.S. Department of Transportation. In order to be eligible for assistance, an eligible entity must submit to the Secretary or the Administrator an application containing information the Corps or the EPA require. It defines eligible entities as corporations, partnerships, joint ventures, trusts, a federal, state, or local government or agency, a tribal government or tribal consortium, or a state infrastructure financing authority. It also defines projects eligible for assistance, including but not limited to, projects for navigation, flood damage reduction, restoration of aquatic ecosystems, water recycling projects improvements to inland and intracoastal waterway navigation systems, wastewater treatment works, desalination plants, and the acquisition of property for the construction of projects. It further defines eligible project activities such as planning, feasibility analysis, revenue forecasting, permitting, engineering, design, construction, rehabilitation, replacement, and the acquisition of property; the criteria to be eligible to receive financial assistance and the factors considered for project selection; and, the types of financing mechanisms and requirements that may be provided to carry out projects and activities authorized.

It clarifies that recipients of funds must comply with all applicable federal, state, local, and Tribal laws, and it authorizes the Secretary and the Administrator to promulgate regulations to carry out the program. It establishes discretionary appropriations as follows: fiscal year 2015, $20 million; fiscal year 2016, $25 million; fiscal year 2017, $35; fiscal year 2018, $45 million; and, fiscal year 2019, $50 million. However, based on the revolving loan aspect of the program, WIFIA, like TIFIA, can “loan out” $10 for every $1 dollar that is appropriated to the program – thus, assuming an appropriation of the full $$20M in the first year, the program can loan $200M.

It also requires the Secretary and the Administrator to make transparent on the Internet each application received for assistance and a list of projects selected for assistance, and not later than 4 years after enactment, requires the Government Accountability Office to submit a report to Congress reviewing the program and any subsequent recommendations to improve the program. Lastly, it clarifies that funds made available may not be used for a project unless all of the iron and steel products used in the project are produced in the United States.

Water in the 21st Century Act

On July 31, Senator Boxer, along with Senator Feinstein, and Representatives Napolitano and DeFazio (D-OR) introduced S. 2771 the “Water in the 21st Century” (W21) legislation. W21 proposes new EPA grant programs and new Reclamation loan programs for various water projects including wastewater, water recycling, reclamation, desalination, etc. A copy of the bill and summary has already been provided to Coalition members. A hearing on the bill may occur next month.

As previously reported, throughout formulation of the bill the Coalition worked closely with

Boxer’s staff to provide its recommendations for new legislation that can provide funding for various water projects. The introduced legislation incorporates all of our requests, including: 100% project financing; allowing interest rates lower than the treasury rates; lowering the $20 M minimum financing level to $10 M and allowing project bundling; ensuring “recycled water” and “wastewater” reclamation project eligibility for grants and loans, and ensuring recycled water financing eligibility even if not previously authorized. As the Coalition has continued to work closely with Boxer’s staff, they have requested and we have provided CWCC support to the introduced legislation. The Coalition plans to continue to be engaged to communicate our funding needs and to do what we can to move this beneficial funding legislation forward.

Status Update: No change since the last report.

Other Legislation of Interest

REED (R-NY-23) H.R.4739 – the “Impaired Waters Improvement Act.” Introduced on May 23, the bill has 3 (now 4) cosponsors and was referred to the Committee on Transportation and Infrastructure. The bill would authorize the EPA to make grants to publicly owned treatment works serving a covered total maximum daily load jurisdiction (TMDL - a total daily load for nitrogen, phosphorous, or sediment established under the Federal Water Pollution Control Act); to publicly owned storm water management practices serving a covered TMDL jurisdiction; or to a privately owned farm implementing methods to reduce discharges of nitrogen, phosphorus, or sediment in a covered TMDL jurisdiction. Grants would be used generally to reduce discharges of nitrogen, phosphorus and sediment using proven technology or innovative practices. Each grant shall not exceed $2M. The bill would also establish an Impaired Waters Improvement Fund, financed from civil penalties for violations of the Federal Water Pollution Control Act, to finance the EPA grants.

Status Update: No change since the last report.

BLUMENAUER (D-OR-3) H.R.3582 - a bill to create a Water Protection and Reinvestment Trust Fund introduced on November 21 with 7 cosponsors on a bipartisan basis. The revenue base for the program would be a voluntary fee of 3 cents per bottle that would allow a drink producer to label the bottle with a seal that indicates support for clean water. It is uncertain how much revenue would be generated from the voluntary fee. Most of the funding created by the Water Protection and Reinvestment Act would be distributed as grants and loans through the existing Clean Water SRF. In addition, twenty percent of the funds in the Trust Fund would be used to finance a WIFIA program to provide low-cost capital to clean water infrastructure project.

STATUS UPDATE: No change since the last report.

MERKLEY (D-OR) S.335 – the Water Infrastructure Finance and Innovation Act of 2013. The bill, introduced on February 14, has one cosponsor. It was referred to the Senate Environment and Public Works Committee (EPW). It authorizes the Administrator of the FEMA to make a direct loan, including a subordinated loan or a loan guarantee to an eligible entity to carry out various water projects. Merkley is a member of EPW and the WIFIA issue was addressed/included in the Committee’s WRDA bill.

STATUS UPDATE: No change since the last report.

CAPPS (D-CA-24) H.R.765 - the “Water Infrastructure Resiliency and Sustainability Act of 2013.” The bill, introduced on February 15, has no cosponsors (now 25) and was referred on

March 1 to the Subcommittee on Water and Power of the House Natural Resources Committee. It requires the Administrator of the EPA to establish the Water Resiliency and Sustainability Programs to provide grants to owners or operators of water systems for programs or projects to increase the resiliency or adaptability of the systems to any ongoing or forecasted changes to the hydrologic conditions of a U.S. region. On September 17, Senator Cardin, Chair of the Subcommittee on Water and Wildlife, introduced S.1508, the companion bill (with Reid and Boxer as cosponsors). The bill was referred to the Environment and Public Works Committee that Boxer chairs.

STATUS UPDATE: No change since the last report.

REID (D-NV) S.4 –the “Rebuild America Act.” Introduced by the Majority Leader on January 22 with 14 cosponsors. The bill expresses the sense of the Senate that Congress should create jobs and support businesses while improving the nation's global competitiveness by modernizing and strengthening our national infrastructure; invest resources in transportation corridors that promote commerce and reduce congestion; update and enhance the U.S. network of rail, dams, and ports; develop innovative financing mechanisms for infrastructure to leverage federal funds with private sector partners; invest in critical infrastructure to reduce energy waste and bolster investment in clean energy jobs and industries; invest in clean energy technologies that help free the United States from its dependence on oil; eliminate wasteful tax subsidies that promote pollution and fail to reduce our reliance on foreign oil; spur innovation by facilitating the development of new cutting-edge broadband internet technology and improving internet access for all Americans; modernize, renovate, and repair elementary and secondary school buildings in order to support improved educational outcomes; invest in the nation's crumbling water infrastructure to protect public health and reduce pollution; upgrade and repair the nation's system of flood protection infrastructure to protect public safety; and invest in U.S. infrastructure to address vulnerabilities to natural disasters and the impacts of extreme weather.

STATUS UPDATE: No change since the last report.

BISHOP (D-NY-1) H.R.1877 - the “Water Quality Protection and Job Creation Act.” On May 8, with 27 cosponsors (now 40) on a bipartisan basis, Rep. Timothy Bishop (D-NY) introduced a bill that would amend the Clean Water Act to establish a Federal trust fund to finance improvements to publicly owned treatment works. H.R. 1877 would also authorize $13.8 billion over five years for the Clean Water Act State Revolving Loan Fund (SRF) program. The SRF monies would be available to states and municipalities to build publicly-owned treatment works, repair or replace decentralized wastewater treatment systems, reduce water demand through conservation efforts, manage non- point source pollution, and adopt energy conservation measures. Another $600 million would be authorized over five years to assist municipalities in managing storm water through green infrastructure and other approaches to controlling runoff from urban areas. The bill would require a state or municipal government to award all contracts for architectural, engineering, surveying, and other design services for projects funded by the legislation with the Federal qualifications-based selection (QBS) process under the Brooks-Architect Engineers Act of 1972.

STATUS UPDATE: No change since the last report.

DELANEY (D-MD-6) H.R.2084 – the “Partnership to Build America Act of 2013.” On May 22, Rep. John Delaney (MD-6) introduced H.R.2084 with 43 (now 75) cosponsors on a bipartisan basis It was referred to the Committees on Transportation and Infrastructure and Ways and Means. The bill would establish the American Infrastructure Fund (AIF) as a wholly owned government corporation to provide bond guarantees and make loans to state and local governments and non-profit infrastructure providers for transportation, energy, water, communications, or educational facility infrastructure projects (Qualified Infrastructure Projects [QIPs]). It would also require the AIF to make equity investments in QIPs such entities sponsor; direct the Secretary of the Treasury, acting through the AIF, to issue American Infrastructure Bonds with an aggregate face value of $50 billion; and, require proceeds from the sale of the bonds to be deposited into the AIF. It also would amend the Internal Revenue Code to allow U.S. corporations to exclude from gross income qualified cash dividend amounts received during a taxable year from a foreign-controlled corporation equal to the face value of qualified infrastructure bonds the corporation has purchased. Lastly, the bill would prohibit allowance of a foreign tax credit to the excluded portion of any dividend received by a U.S. Corporation and the allowance of a deduction for expenses related to that excludable portion.

STATUS UPDATE: No change since the last report.

SIRES (D-NJ-8) H.R.2424 – the “Community Parks Revitalization Act.” On June 18, Congressman Albio Sires (NJ-8), with 24 (now 38) cosponsors, introduced the bill and it was referred to three committees. It would require the Secretary of Housing and Urban Development (HUD) to carry out a community revitalization program of federal grants to eligible local governments located within standard metropolitan statistical areas for various park and recreation purposes, including grants for rehabilitation and construction, innovation and recreation programming, and recovery action programs. It would also authorize the Secretary to designate local governments not located in standard metropolitan statistical areas to receive such grants under a partial eligibility waiver; prescribe requirements, including matching requirements, for rehabilitation and construction and for innovation and recreation grants; limit to 10% the use of funds appropriated for rehabilitation and construction grants for acquisition of land or interests in land; allow a recipient, at its discretion, to transfer a grant in whole or in part to private nonprofit agencies for recreational areas and facilities they own or operate which offer recreational opportunities to the general population; require an applicant, for project approval, to submit to the Secretary evidence of its commitment to ongoing planning, rehabilitation, service, operation, and maintenance programs for its park and recreation systems, expressed in a five-year local park and recreation recovery action program; prescribe requirements for the five-year park and recreation recovery action program under an at-risk youth recreation grant; authorize the Secretary to increase federal rehabilitation and construction, innovation, and at-risk youth recreation grants to a state under this Act by an additional match of up to 15% (but not more than 15%) of total project or program cost; limit the aggregate amount of the grant and the additional grant amounts to 85% percent of total project or program cost; and, prohibit the conversion, without HUD approval, of any property improved or developed with assistance under this Act for uses other than for public recreation.

STATUS UPDATE: No change since the last report.