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FROM: Eric Sapirstein  
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SUBJECT: Washington Update

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The House and Senate returned from recess to begin the process of preparing for the Administration's Fiscal Year 2024 budget request. The House and Senate Committees on Appropriations issued policy on how Members could request targeted spending for infrastructure projects. Overall, Congress is beginning the business of legislating and conducting oversight of the Administration's activities.

***Fiscal Year 2024 Budget and Community Projects***

On March 9, the Administration will release its budget priorities for the new fiscal year that begins on October 1. The action will mark the start of the formal congressional process to develop agency budgets and spending priorities for the domestic and defense accounts. It appears the White House will continue to seek funding for infrastructure needs with a focus on disadvantaged communities. In light of the recent train derailment and chemical spill in Ohio, it is assumed that increased funding will be requested to address chemical threats, including Per-and Polyfluoroalkyl Substances (PFAS) contamination.

As expected, the conditions to seek congressionally directed funding (Community Projects) were released by the House and Senate. Notable this year is the different parameters that will guide requests. The House has limited total earmarks to 0.5 percent of total spending, eliminates eligibility of non-governmental organizations (NGO's)/nonprofits from receiving assistance, and limit Members to fifteen requests. In the Senate the limitation remains at 1 percent of overall federal spending and Members can seek as many projects as they wish. NGO's would remain eligible. For OC San, the overall effect should be negligible since the kind of projects that remain a priority for Congress include wastewater infrastructure.

***National Pollutant Discharge Elimination System (NPDES) Permit Terms Extension Bill Introduced***

Representatives John Garamendi and Ken Calvert introduced legislation, H.R. 1181, to provide states with the authority to issue an NPDES permit for 10 years for wastewater agencies. The legislation is similar to the Garamendi bill first introduced two years ago. Unlike past years, there is a bipartisan effort growing to modernize the federal permitting system. According to House Committee on Transportation & Infrastructure staff, a bipartisan effort to move permit reform legislation, like the Garamendi bill, is becoming increasingly viable given the desire by the White House to advance permit reforms for renewable energy projects. The staff indicated at a recent California Association of Sanitation Agencies meeting that legislative consideration by the committee could occur toward the end of March at the earliest.

***United States Environmental Protection Agency (USEPA) Continues to Advance PFAS Regulations***

USEPA is expected to issue a final drinking water health standard (MCL) for PFAS by the end of March, if not before. According to recent statements, it appears that the standard will be set at four parts per trillion that aligns with the existing technical capabilities to detect to this level. While the standard would not directly impact wastewater it is likely to guide future decisions on how wastewater agencies could be required to test and treat influent. In the interim, the agency is preparing to identify 140 wastewater agencies to require monitoring and reporting on influent and whether (and to what level) PFAS are present in the influent. Additionally, the agency continues to review its biosolids risk assessment model to determine whether new biosolids treatment standards might be warranted. Regardless of how USEPA proceeds, it appears highly unlikely that any final decisions will be made until 2024.

In Congress, action on legislation to impose new treatment standards on wastewaters and biosolids remains a strong possibility. According to congressional staff, the focus seems to be on developing technologies to destroy PFAS and to support increased research into the nature and extent of threats from PFAS to the environment and the public. It appears that concerns surrounding imposing new control and treatment mandates without first validating the pathways of serious exposure has become a top priority for the development of legislation. While the push to impose Superfund liability on PFAS contamination, which could capture wastewater agencies, it is becoming clear that the votes, at this writing, do not exist to move such legislation through the Senate.