



TO: Rebecca Long

FROM: Eric Sapirstein

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SUBJECT: Washington Update

Over the past month, Congress and the Administration continued to advance the process of developing a budget resolution that would lead to reconciliation. As of Friday, March 14, the question on whether the government would shutdown was answered when Senate Democrats reversed their position and voted to pass the seven month Continuing Resolution, giving Republicans the required 60 plus votes necessary to avoid a filibuster. President Trump signed it into law and the federal government will now operate without interruption to the end of the fiscal year, September 30, 2025. President Trump secured the confirmation of his cabinet nominees. Notably, United States Environmental Protection Agency (USEPA), Department of the Interior and Department of Energy leadership are in a position to implement the President's policy priorities. For OC San, the immediate impact of the confirmations is the review of key regulatory initiatives taken by the Biden Administration in its waning days. This includes another review of the never ending WOTUS policy debate. While there has not been action taken on pending guidance related to PFAS in biosolids and a draft risk assessment model that has questionable underlying science justifying the impractical risk assessment findings, the USEPA did extend the public comment period until mid-April.

The ongoing effort to reduce the size of the federal bureaucracy through Department of Government Efficiency has met with mixed results. In the past few weeks, the dismissal of probationary workers and acceptance by employees of early retirement packages led to concerns that water projects management could suffer in California. As a result, a number of dismissed employees were reinstated along with judicial decisions ordering the rehiring of workers. At the same time, the Administration continues to move forward with the goal of reducing the federal government's footprint by unloading real estate and not renewing leases.

House and Senate Move Forward on Budget Resolutions

The House and Senate Budget Committees took the first steps toward voting on a final budget reconciliation bill later this summer as required under the Budget Control and Impoundment Act of 1974. The Senate and House each approved a budget blueprint. The Senate is relying upon a “skinny” budget resolution, addressing overall spending increases and reductions and priorities for energy, defense and immigration. This skinny budget resolution delays action on tax cuts and other fiscal reforms for a second resolution. The House budget, unlike the Senate approach, is a massive resolution touching upon all elements of the budget, dispensing with the need for a second resolution. As passed in the House, two trillion dollars in spending cuts must be found over ten years. The Senate calls for \$1.5 trillion in cuts. Final approval of the budget resolution will require the two chambers to reconcile the \$500 billion difference. Central to the challenge to find a compromise that would lead to an enforceable reconciliation bill are potential spending reductions that would be required. Moderate and swing state Republicans in the House are concerned over the impacts that the proposed domestic spending reductions would create. At the same time, House conservatives continue to express frustrations over increases in spending and tax cuts without corresponding spending cuts.

Importance of Budget Resolution

The passage of a budget resolution is vital to deliver the actual budget reconciliation measure. Reconciliation provides for the enforcement of the resolution’s provisions governing tax and spending policy. It will govern federal policymaking and spending over the next ten years. However, the first five years are mandatory directives. The subsequent five years of the budget mandates are often subject to revision, depending upon economic circumstances and who controls Congress. The resolution and reconciliation will impact the funding levels of key domestic spending, including infrastructure assistance programs. For example, the Committee on Transportation & Infrastructure with authority over the Clean Water Act is directed to cut at least \$10 billion in spending. It could also impose mandates to reorganize federal agencies and/or programs if the reorganization could be demonstrated to have a direct impact upon the federal budget.

NPDES Permitting Reforms Legislation Introduced

During a recent House Committee on Transportation & Infrastructure hearings into the value of the Clean Water Act’s infrastructure programs and permitting, witnesses detailed the need to expedite project construction while minimizing bureaucratic delays. Representative John Garamendi (D-CA) announced that a bipartisan bill to allow states to issue National Pollutant Discharge Elimination System (NPDES) permits to clean water agencies for ten years would be introduced. Following the hearing, Representative Ken Calvert (R-CA), joined by Garamendi and Representative David Rouzer (R-NC) introduced H.R. 2093. H.R. 2093 contains provisions that were included in last year’s House-passed Confidence in Clean Water Permitting Act. H.R. 2093 would benefit wastewater, water recycling and desalination projects. The Senate Committee on Environment and Public Works recently held a hearing on permitting challenges and all witnesses called for reforms. On a bipartisan basis, committee members noted that permitting reform is a legitimate policy debate.

Members highlighted that the current federal processes are too cumbersome and create delays that do not benefit the environment and only serve to increase projects costs due to delays. As a result, committee staff are considering broad ranging energy and environment permit reforms for the committee to consider in the months ahead. As of this writing, NPDES ten year permit terms are included as part of the committee staff's discussions.

Importance of Ten Year Permits Legislation

The 119th Congress and the Administration have placed a priority on permitting reforms. As a result, the environment to authorize 10-year NPDES permit terms has become more receptive than in past years. If reforms are passed, a bill would likely be signed into law. If enacted into law, agencies like OC San would realize reduced administrative red tape associated with Clean Water Act permit renewals and deliver efficiencies in complying with the Clean Water Act.

Draft Risk Assessment for PFOS and PFAS and Human Health Aquatic Criteria Pending

The USEPA published its Draft Sewage Sludge Risk Assessment for Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonic Acid (PFOS). The draft risk assessment's public comment period was extended until April 16, 2025. At the same time, the agency also extended the public comment period for aquatic human health criteria related to PFAS presence and threats until April 25, 2025. Both initiatives have sparked significant concern throughout the water sector because of the agency's use of questionable scientific and technical assumptions related to public health threats from PFAS.

Importance of Public Comment Period Extension Requests

The extended public comment period is vital to ensure that the new USEPA leadership has the benefit to review the model and criteria that were published weeks before the Trump Administration came into office. The extended time to provide public comments will allow stakeholders develop informed feedback on the assumptions and benefits that USEPA could use to revise the model and criteria, if appropriate.

Court Approves Stay of PFAS MCL Litigation and Continues to Consider Stay Request on PFAS CERCLA Designation Rule.

The DC Federal Court has agreed to USEPA's request to hold litigation filed by AWWA and AMWA seeking the overturning of the PFAS 4 parts per trillion maximum contaminant level. The request from the USEPA is to allow the agency's new management to review the litigation in order to be better informed on the basis of the challenge. The hold is in effect for 60 days from February 7, 2025. A similar request from USEPA to stay the CERCLA designation of PFAS is pending the court's decision.

Importance of Stay

The stay of litigation means that the agency and Department of Justice are in a position to consider options on how best to proceed on the challenge. One remote outcome is the litigants could reach an understanding to restart the rulemaking process. However, this may be a difficult path since E-NGO's like Earth Justice and Natural Resources Defense Council are recognized as "Intervenors" in the case. Their consent to any decision would be required.

Former OC San Board Chair Nomination to Department of Homeland Security Proceeds in Senate

Troy Edgar, former Board Chair and Board Member of OC San, was nominated by President Trump several weeks ago to become the Deputy Secretary to the Department of Homeland Security. Edgar's nomination was heard by the Senate Committee on Homeland Security on Tuesday, February 25. If the committee approves the nomination and Edgar receives Senate confirmation, he will become the second in command for the sprawling Homeland Security Department effectively serving as the day-to-day manager of the Department.

Importance of Nomination

If Troy Edgar is confirmed, he will have responsibility over disaster assistance, cybersecurity and other policy matters of interest to OC San. His intimate understanding of the challenges that clean water agencies face in protecting their information technology and operational technologies should enhance development of potential rulemakings that clean water agencies could face as cybersecurity needs increase and the federal government seeks to develop effective and efficient compliance mandates for critical infrastructure that includes water and wastewater infrastructure.