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FROM: Eric Sapirstein

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SUBJECT: May Washington Update

Since the last federal update, Congress has continued to target development of a final budget reconciliation with implications for federal program spending over the next ten years. The U.S. Environmental Protection Agency (USEPA) continued to address regulation of “forever chemicals” with USEPA Administrator Lee Zeldin issuing a series of policy priorities that are generally in alignment with the past Administration’s positions. However, Zeldin’s priorities are notable for the acknowledgement that water sector’s liability, attributable to the agency’s designation of per- and polyfluoroalkyl (PFAS) as hazardous substances under Superfund, demands the development of a new liability standard to protect the sector. Lastly, the Administration transmitted to Congress a fiscal year (FY) 2026 budget request that is certain to generate bipartisan push back its request to eliminate funding for USEPA’s clean water infrastructure assistance program. The following details a number of issues of interest to OC San.

Budget Reconciliation Emerges But Reveals Divisions

Each of the House committees with jurisdiction of program spending authorization and tax policies succeeded in approving, along party lines, recommendations to govern spending and tax cuts for the next decade. These actions and decisions do not impact the wastewater sector, as the policies do not target spending levels for programs that support water infrastructure, like the State Revolving Loan Fund (SRF). Overall, the combined budget recommendations would cut federal program spending by more than a trillion dollars and retain the 2017 tax cuts into perpetuity. The next step in the process involves packaging the various elements of the committees’ recommendations into a formal enforceable budget reconciliation measure that the president would sign into law. This is the purview of the Budget Committees in both chambers. Procedurally, the House acts first, and the Senate follows. The House Committee on the Budget passed the bill along a party-line vote of 17-16. Floor debate and a vote on the bill has yet to be scheduled as of this writing.

However, policy disagreements still exist among House Republicans about the bill. Specifically, some Members are seeking deeper spending cuts. Secondly, Members from high tax states (including California) have insisted that the State and Local Tax (SALT) deduction be increased and demanded an increase of at least \$60,000 annually (the current level is \$10,000). Absent this increased level, these Members (including Rep. Young Kim) have indicated that they are unable to vote for any measure on the floor. Other disagreements exist, notably impacts to Medicaid assistance availability. As of this writing, it remains an open question as to whether House leadership will be able to appease these concerns and secure enough support to pass the bill on the House Floor.

Importance of Budget Debate

For OC San, the importance of the ongoing budget debate is found in the fact that depending upon how final spending cuts are determined, it could, ultimately, force federal programs of importance to water quality to be reduced from existing spending levels. This is because any overall budget limits that Congress passes in a final reconciliation measure will dictate how much spending the Committees on Appropriations will have to allocate to individual programs.

Fiscal Year 2026 Appropriations Process Jump Started with White House Budget Request

On May 1, the White House transmitted its Fiscal Year 2026 budget request. The budget, referred to as a “Skinny Budget” because of its limited details, which is customary for a new Administration’s first budget, is notable because of the overall philosophy guiding policy. The budget request rests on a fundamental notion that many of the domestic programs are best left for the states to fund and manage. To this end, USEPA’s State Revolving Loan Fund and Categorical Grants are terminated. The justification for this is the programs have outlived their purposes or are not federal responsibilities.

The congressional reception to the Skinny Budget has been chilly. USEPA Administrator Zeldin testifying before the House and Senate Committees on Appropriations received bipartisan comments from leadership that requested programs’ funding levels were unacceptable. Aside from statements in support of a robust federal partnership with the states and local communities, Members also expressed skepticism as to whether the agency would have the necessary qualified staff to manage its responsibilities given the reductions in workforce.

Importance of Congressional Budget Review

As Congress works to finalize a budget reconciliation package that will guide overall spending, the committees that must comply with any spending ceilings appear prepared to support funding of critical infrastructure funding programs at USEPA and most likely other agencies.

These committees must also determine funding levels for agency staffing levels. Concerns over the past months’ voluntary retirements, probationary firings and imminent reductions

in force may create new tensions between Congress and the Administration over the composition of any final Fiscal Year 2026 spending bills that might prevent a final budget being enacted by October 1. This could, again, end in a year-long spending bill that would limit how federal programs would be implemented.

NPDES Permitting Reforms Legislation Introduced

In a recent House Committee on Transportation & Infrastructure hearing, witnesses discussed the importance of speeding up project construction under the Clean Water Act, while reducing bureaucratic delays. Representative John Garamendi (D-CA) announced a bipartisan bill that would allow states to issue 10-year National Pollutant Discharge Elimination System (NPDES) permits to clean water agencies. After the hearing, Representatives Ken Calvert (R-CA), Garamendi, and David Rouzer (R-NC) introduced H.R. 2093, which includes provisions from last year's House-passed *Confidence in Clean Water Permitting Act*. This bill would help wastewater, water recycling, and desalination projects.

The Senate Committee on Environment and Public Works also recently held a hearing on permitting issues, where all witnesses agreed that reforms are needed. Committee members, from both parties, pointed out that the current federal permitting process is too slow and costly, without benefiting the environment. As a result, committee staff are considering broad reforms to energy and environmental permitting in the coming months, including discussions about 10-year NPDES permit terms

Importance of Ten-Year Permits Legislation

The 119th Congress and the Administration have placed priority on permitting reforms. As a result, the environment to authorize ten-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, water sector agencies would realize reduced administrative red tape associated with Clean Water Act to permit renewals and deliver efficiencies in complying with the Clean Water Act.

'Do Not Flush' Legislation Advances in the Senate

Following last month's House committee action approving the WIPPES Act (H.R. 2269), floor action is likely within the next several weeks. As the bill passed the House last Congress, it is hoped that floor action on H.R. 2269 will be pro forma with little if any complications for passage. In the Senate, a major advancement of the Senate version of the WIPPES bill, S. 1092, is slated for mark-up on May 21. Assuming the Senate Committee on Commerce approves the legislation on a bipartisan basis, it should lead to Senate floor debate and a vote. Once this happens, and the House passes its bill, a conference committee will be scheduled between the two chambers to reconcile any differences, if such differences exist.

Importance of Senate Action on WIPPES Act

Senate committee consideration and approval of the legislation would remove a major hurdle for passage of the bill. The limited calendar during the past Congress precluded Senate committee action. The decision to move forward on the bill early in this Congress suggests that final congressional action on the WIPPEs Act is highly probable. Regardless of the contours of any final agreement, it appears the legislation would establish a federal standard requiring manufacturers to label such products with a 'Do Not Flush' warning, aligning with California's state law.

USEPA Administrator Details Priorities To Address PFAS Chemicals

USEPA Administrator Zeldin released an extensive policy statement on how he expects the agency to proceed on developing policies and rules surrounding the management of PFAS and successor chemicals. Uppermost in his position is the priority to rely upon science and real time data to help make decisions. The outline of the Administrator's priorities track the agency's earlier PFAS policies, but with some notable policy shifts. The Administrator emphasizes that one official will be tasked with managing the agency's PFAS agenda. This should enhance coordination and transparency in PFAS policy and rule development. He also highlighted the importance attached to addressing "passive receiver" liability under Superfund for PFAS. The Administrator cited his interest in working with industry stakeholders and Congress to develop a liability regime that protects passive receivers like the wastewater sector. In addition, the Administrator affirmed his desire to finalize a risk assessment model for biosolids, impose effluent limitation guidelines on metal finishers and manufacturers and users of PFAS to protect against discharges, require real time monitoring of PFAS presence, and rely upon the Clean Air, Safe Drinking Water, Clean Water, Solid Waste Management and Toxic Substances Control Acts to address PFAS.

Importance of Administrator Position

The Administrator's announced PFAS priorities carries important weight and supports OC San's interests. Congress is preparing to address PFAS policy issues, including liability and treatment needs. Zeldin's public statements on a desire to work with stakeholders on liability means that a key policymaker is on the record in support of the development of an approach to protect innocent parties that currently face potential liability because of USEPA's hazardous substance designation under Superfund. Additionally, the priority to update acceptable management practices for biosolids on an annual basis, instead of the current three year schedule, should enhance the development and acceptability of new management technologies. This along with the priority to finalize a validated risk assessment model for biosolids and land application should support the use of accepted management approaches. Overall, the Administrator's stated priorities signal a renewed commitment to rely upon science and validated research in setting standards for PFAS.