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## ***NOVEMBER 2018 INSIGHTS***

Note: Congress is in recess until Nov. 13.

### **The Recess and Lame Duck Session**

Congress will return to DC after the election for a "Lame Duck" session. It is unclear at this time how long the Lame Duck will last and what, if any, legislation will get passed. The outcome of the November elections will have a big impact on the duration and productivity of the Lame Duck session, particularly if the Democrats take over the House. Any pending legislation that is not passed and signed into law when Congress adjourns for the year - likely in mid-December - is officially dead and must be reintroduced again in the new, 116th Congress which begins in mid-January 2019.

Congress was able to pass a few of the FY19 appropriations bills, including the infrastructure-related Energy & Water funding bill, before the October 1 start of the new fiscal year. However, Congress did not pass the THUD (US DOT) bill before leaving town. In order to avoid a partial government shutdown, Congress passed a Continuing Resolution (CR) to fund all remaining federal agencies through December 7. The CR funds federal programs at the FY18 funding levels.

### **Infrastructure Initiative**

As a matter of practice on a regular basis we contact key individuals in the Administration and the Congress to find out the latest developments and to try to influence the process. Last month, we did a round of meetings on the Hill which we reported in the monthly report. From those meetings we learned that there were no significant developments on a mega infrastructure initiative, the focus of Congress being on the Supreme Court nomination and the FY19 appropriation bills. Now Congress is in recess until after the midterms - Nov. 13. The current Continuing Resolution expires Dec. 7. It is very narrow in scope - it includes only four bills, many of which have a strong likelihood of passage on their own before Dec. 7. Bottom line, it doesn't look like a long lame duck session, and therefore not enough time to do a mega infrastructure bill given where things are now. Coupled with this is the Nov. election, the results of which will clearly impact if and when a bill is pursued and what a bill would look like.

Whether as a result of the election the House and Senate are both controlled by one party or the control is split, there continues to be reports from both sides of the aisle on an infrastructure effort. For example, there was a recent news report that the House Transportation Committee's two Republican chairman hopefuls (Rep. [Jeff Denham](#) (R-CA) and Rep. [Sam Graves](#) (R-MO) as well as Derek Kan, Undersecretary for Policy at DOT, all think infrastructure will be "the talk of

the town in early 2019." Graves said: "There are several ideas on the table — everything from a battery tax to a tire tax to increasing the fuel tax to a vehicle-miles-traveled system." Denham said he supported dedicated lanes for trucks and having railroad systems "on dedicated track, so you improve efficiencies for freight rail, but also have greater capacity for passenger movement as well." He also believes the "biggest opportunity is going to be public-private partnerships — utilizing capital that is out there from the private sector and combining that with federal funds that we could have through infrastructure banks." On the Senate Republican side, Sen. [John Barrasso \(R-Wyo.\)](#), Chair of the Environment and Public Works Committee, "unofficially kicked off the debate" over the next surface transportation bill by [introducing](#) a bill on Oct. 6 ([S. 3559](#)) that would repeal the \$7,500 federal tax credit for electric vehicle purchases and impose a highway user fee on alternative-fuel vehicles that don't pay at the pump. And as we reported previously, House Transportation and Infrastructure Committee Chairman Shuster released his outline of a bill as has Congressman DeFazio, Ranking Democrat on the T&I Committee, which would raise the gas tax by up to \$1.5 cents a gallon a year and speed up the flow of revenue by introducing a new 30-year bond.

And related to this is the issue of earmarks. We noted with interest a news conference last month where the Speaker said that earmarks is something the caucus will likely "wrestle with" after the midterms. He also alluded to ongoing conversations with the House Democratic leadership on the issue and we have confirmed that Democratic Minority Whip Steny Hoyer has drafted an outline proposal to bring earmarks back. No details are known as yet.

So the Hill visits were last month. This month we did a round of meetings with Administration officials - namely, the Department of Transportation which has the de facto lead on the infrastructure issue because they represent most of the core infrastructure modes and because some key White House infrastructure staff - namely Gary Cohn and DJ Gribbin - have moved on; the Office of Management and Budget which has already begun the process of identifying overall cost and possible revenue sources; and, The White House given the President's views on the issue. What we came away with from all the meetings was a renewed sense of enthusiasm for a mega bill. This comes as a result of the President's latest "victories" - Kavanaugh and NAFTA, increase in jobs and higher wages, and his continue commitment to infrastructure. In terms of priorities, we heard in the meetings that the Administration may revisit early next year the health care reform effort focusing on more narrow issues and possibly another round of tax reforms (the House just passed Tax Reform 2.0), but over and above both of these, we also heard that infrastructure is the "next big effort." We will continue to stay in touch with both the Administration and the Hill and report back.

## **WRDA Reauthorization**

To review, on October 23 the President signed into law (P.L. 115- 270) S.3021, "America's Water Infrastructure Act of 2018." which combines the biennial Water Resources Development Act (WRDA) that funds the Corps of Engineers along with the Safe Drinking Water Act, authorization of hydropower projects, and reauthorization and expansion of WIFIA financing for storm water and wastewater infrastructure improvements, as follows:

- Authorizes the Corps of Engineers to undertake 15 major new construction projects that will cost a total of \$8.3B and feasibility studies for 65 new projects.
- Provides for a two-year \$100M reauthorization of the WIFIA program for large-scale water infrastructure projects loans at the Treasury Department's long-term interest rate.
- Includes a title dedicated to water energy to open up the potential of sending more

hydropower onto the grid through a streamlined federal approval process. The title would give operators credits for actions already taken before their re-licensing process as well as those required by the new license.

- Nearly doubles grants to states for Drinking Water Revolving Loan Funds. This is the first reauthorization of the Drinking Water SRF in more than two decades. It authorizes \$1.17B for FY19; \$1.3B for FY20; and \$1.95B for FY21 for the Drinking Water SRF funds. This nearly doubles the current annual authorization.
- Includes S. 1137, the Clean, Safe, Reliable Water Infrastructure Act, to address the need to invest in the nation's drinking water, sewer and stormwater systems. It also provides for increased water efficiency, specifically by including \$450M to protect the sources of drinking water and funding to repair and eliminate combined sewer overflows (CSOs). And it formally authorizes the voluntary WaterSense program, which identifies and promotes water-efficient products through voluntary labeling.
- Creates Multiagency Federal Task Force on Stormwater Infrastructure. The task force will, with feedback from permittees, state and local governments and other stakeholders, provide in a report to Congress suggestions for improving the funding and financing of stormwater systems.
- Expands onsite wastewater treatment by addressing the need for information about onsite waste water recycling as one alternative for communities who cannot afford the upfront costs or ongoing maintenance costs of traditional wastewater infrastructure.
- Includes S. 451, the Water Resources Research Amendments Act, for additional research into increasing the effectiveness and efficiency of new and existing water treatment works.
- Enhances drinking water infrastructure resiliency and sustainability by directing the EPA to establish a "Water Infrastructure Resiliency and Sustainability Program" to award grants in each of FY19 and FY20 to increase the resiliency or adaptability of drinking water systems to regional changes in hydrologic conditions like droughts, floods and sea level rise. This section authorizes \$4M to carry out this section for each of the two fiscal years.

## **Other Bills**

There are still the original Boozman/Feinstein SRF WIN Bill, and the Carbajal/Reed bill, both of which have bipartisan support. To review, S. 2364 was introduced by Senators John Boozman (R-AR), Chair of the Water Subcommittee of the Environment and Public Works Committee (EPW), and Senator Diane Feinstein (D-CA), Ranking Democrat of the Energy and Water Appropriations Subcommittee. H.R. 4902 was introduced by Congressmen John Katko (R-NY-24), a member of the Water Resources Subcommittee of the Transportation and Infrastructure Committee, and Earl Blumenauer (D-OR-3), a member of the Ways and Means Committee (now with 7 sponsors) and, if you recall, the author of the voluntary fee labeling bill.

Generally, the bills - a new loan program - are intended to combine the "best aspects of the SRF's with the leveraging power of WIFIA." Specifically, the bills authorize \$200M for each of FY19-23 for states to apply for loans. There is a \$7B per state loan cap for the 5 years. Fifty percent of the funds would be loaned at the current Treasury rate. The bill states that those funds would support \$10B in loans per year. The other fifty percent would go to states that receive less

than 2 percent of the total amount of funds made available to the states for the state loan funds for the most recent fiscal year OR to major disaster declared states if the loan is for a project related to wastewater or drinking water infrastructure damaged by the disaster. The bills state that those funds would support \$850M in loans per year. The Federal share for loans is up to \$100%. Eligible project activities are those included in a state's SRF "intended use plan."

The \$100,000 WIFIA application fee is waived. The application process is limited to 180-days maximum. No new project approval requirements would be needed - existing approvals would suffice. The new program is tied to FY18 appropriation levels for the SRF's - if at any year in the appropriations process the SRF funding levels are below the FY18 levels, this new program will not kick in for that year.

H.R. 5596 was introduced on April 24 by Congressmen Salud Carbajal (D-CA-24) and Tom Reed (R-NY-23) and H.R. 5609 and introduced on April 25 by Congressman Keith Ellison (D-MN-5). H.R. 5596 authorizes \$50M for each of FY18-22 for a new EPA grant program for owners or operators of water systems who wish to increase resiliency or adaptability to extreme weather events. Eligible projects include efforts to conserve water or increase efficiency in its use, preserve or improve water quality, rebuild or relocate threatened infrastructure, protect source waters, etc. The Federal share is 75%. H.R. 5609 creates a new water trust fund financed by increasing the corporate tax rate from 21 to 24.5% with an annual funding cap of up to \$35B going into the trust fund. Of that amount, 45% would be available for the Clean Water SRF and 44% for the Safe Drinking Water SRF. Other water programs – pollution control, non-point source, agriculture programs, etc. – make up the balance.

We continue to monitor these and other bills that have introduced that represent issues of interest to legislators and serve to position themselves for a future infrastructure bill. There have been no substantive developments to the bills of interest to the Coalition - H.R. 3275, the WEST Act; H.R. 2510, the "Water Quality Protection and Job Creation Act of 2017;" H.R. 5127, the "Water Recycling Investment and Improvement Act;" and, H.R. 1647, the Water Infrastructure Trust Fund Act of 2017" - since the last report.

Lastly, the Democrats on the House Natural Resources Committee continue to look at McNerney's WEST Act (H.R. 3275), which the Coalition was very much involved in, with the goal of re-writing the bill to reflect the Committee's jurisdiction and introducing it as such. Progress is slow.

## **FY 19 Federal Funding Generally**

Congress passed a Continuing Resolution extending funding until Dec. 7 at FY18 levels for those appropriations bills not enacted by Oct. 1. That includes the Interior (SRF funding) and Transportation Appropriations Bills which are currently in conference and are expected to be finalized soon. It does not include the Energy and Water Appropriations Bill (Corps of Engineers) which was signed into law on Sept. 21.

## **FY19 Interior Appropriations Bills**

The bills are in conference to and it is expected that agreement will be reached soon. The Senate version contains higher appropriations for CWSRF and WIFIA than the House version. Specifically, the House bill contains lower numbers (\$1.34 for the CWSRF and \$900M for the SDWSRF) than the Senate despite the FY19 raised budget caps. The Senate has the same numbers as for FY18, which are \$1.694B for the CWSRF and \$1.16B for the SDWSRF. The House provides \$75M for WIFIA and the Senate \$63M.

## FY19 Transportation Appropriations Bills

Even though both the House and Senate bills have not been passed, they are in conference and it is expected that agreement will be reached soon as the funding levels in the bills are not far apart.

<b>Program</b>	<b>FY'17 Enacted</b>	<b>FY'18 Enacted</b>	<b>House Committee-Passed FY'19 Bill</b>	<b>Final Senate 19 Bill</b>
Highway Program	\$43.26B	\$47.5BB	\$50.3B	\$48.57B
BUILD/TIGER Grants	\$500M	\$1.5B	\$750M	\$1B
FTA CIG Grants - New Starts/Small Starts/Core Capacity	\$2.41B	\$2.65B	\$2.61B	\$2.6B
FTA Formula Grants	\$9.73B	\$10.5B	\$10.7B	\$10.7B
FTA WMATA	\$150M	\$150M	\$150M	\$150M
FAA Airport Improvement Program (AIP)	\$3.35B	\$4.35B	\$3.85B	\$4.1B
Amtrak NEC	\$328M	\$650M	\$650M	\$650M
Amtrak National Network	\$1.16B	\$1.29B	\$1.29B	\$1.29B
FRA CRISI Grants	\$68M	\$593M	\$300M	\$255M
FRA SOGR Grants	\$25M	\$250M	\$500M	\$300M
FRA Restoration Grants	\$5M	\$20M	\$0	\$10M

### Earmarks

See discussion above in Infrastructure Initiative section.

### Bill Tracking

**H.R.434** — 115th Congress (2017-2018) **New WATER Act Sponsor:** Rep. Denham, Jeff [R-CA-10] (Introduced 01/11/2017) **Cosponsors:** (9) **Committees:** House - Natural Resources

Status Update: no change since the last report.

**H.R.23** — 115th Congress (2017-2018) **Gaining Responsibility on Water Act of 2017 Sponsor:** Rep. Valadao, David G. [R-CA-21] (Introduced 01/03/2017) **Cosponsors:** (14) **Committees:** House - Natural Resources, Agriculture **Latest Action:** Passed House on July 12.

Status Update: no change since the last report.

H.R.465 — 115th Congress (2017-2018) **To amend the Federal Water Pollution Control Act to provide for an integrated planning and permitting process, and for other purposes.** **Sponsor:** Rep. Gibbs, Bob [R-OH-7] (Introduced 01/12/2017) **Cosponsors:** (1, now 8) **Committees:** House - Transportation and Infrastructure

Status Update: no change since the last report.

H.R.547 — 115th Congress (2017-2018)

**National Infrastructure Development Bank of 2017**

**Sponsor:** Rep. DeLauro, Rosa L. [D-CT-3] (Introduced 01/13/2017) **Cosponsors:** (73, now 86)

**Committees:** House - Energy and Commerce, Transportation and Infrastructure, Financial Services, Ways and Means

Status Update: no change since the last report.

H.R.2479 — 115th Congress (2017-2018)

**Leading Infrastructure for Tomorrow's America Act**

**Sponsor:** Rep. Pallone, Frank, Jr. [D-NJ-6] (Introduced 05/17/2017) **Cosponsors:** (25)

**Committees:** House - Energy and Commerce, Science, Space, and Technology, Transportation and Infrastructure, Ways and Means, Natural Resources

Status Update: no change since the last report.

H.R.100 — 115th Congress (2017-2018)

**Support Local Transportation Act**

**Sponsor:** Rep. Brownley, Julia [D-CA-26] (Introduced 01/03/2017) **Cosponsors:** (0, now 2)

**Committees:** House - Transportation and Infrastructure

Status Update: no change since the last report.

H.R.481 — 115th Congress (2017-2018)

**REBUILD Act**

**Sponsor:** Rep. Calvert, Ken [R-CA-42] (Introduced 01/12/2017) **Cosponsors:** (0)

**Committees:** House - Natural Resources

Status Update: no change since the last report.

H.R.966 — 115th Congress (2017-2018)

**TIGER CUBS Act**

**Sponsor:** Rep. Larsen, Rick [D-WA-2] (Introduced 02/07/2017) **Cosponsors:** (5, now 8)

**Committees:** House - Appropriations, Budget.

Status Update: no change since the last report.

S.846 — 115th Congress (2017-2018)

**SAFE Bridges Act of 2017**

**Sponsor:** Sen. Shaheen, Jeanne [D-NH] (Introduced 04/05/2017) **Cosponsors:** (4)

**Committees:** Senate - Environment and Public Works

Status Update: no change since the last report.

H.R.1670 — 115th Congress (2017-2018)

**Infrastructure 2.0 Act**

**Sponsor:** Rep. Delaney, John K. [D-MD-6] (Introduced 03/22/2017) **Cosponsors:** (21)

**Committees:** House - Ways and Means, Transportation and Infrastructure, Rules

Status Update: no change since the last report.

H.R.1669 — 115th Congress (2017-2018)

**Partnership to Build America Act of 2017**

**Sponsor:** Rep. Delaney, John K. [D-MD-6] (Introduced 03/22/2017) **Cosponsors:** (23, now 27)

**Committees:** House - Transportation and Infrastructure, Ways and Means

Status Update: no change since the last report.

S.1756 — 115th Congress (2017-2018)

**Rebuild America Now Act**

**Sponsor:** Sen. Sullivan, Dan [R-AK] (Introduced 08/03/2017) **Cosponsors:** (11)

**Committees:** Senate - Environment and Public Works

Status Update: no change since the last report.