

AGENDA
COMMUNICATIONS AND LEGISLATIVE LIAISON COMMITTEE MEETING
WITH BOARD OF DIRECTORS*
ORANGE COUNTY WATER DISTRICT
18700 Ward Street, Fountain Valley, CA (714) 378-3200
Thursday, November 2, 2017, 8:00 a.m. - Conference Room C-2

*The OCWD Communications and Legislative Liaison Committee meeting is noticed as a joint meeting with the Board of Directors for the purpose of strict compliance with the Brown Act and it provides an opportunity for all Directors to hear presentations and participate in discussions. Directors receive no additional compensation or stipend as a result of simultaneously convening this meeting. Items recommended for approval at this meeting will be placed on the **November 15, 2017** Board meeting Agenda for approval.

ROLL CALL

ITEMS RECEIVED TOO LATE TO BE AGENDIZED

RECOMMENDATION: Adopt resolution determining need to take immediate action on item(s) and that the need for action came to the attention of the District subsequent to the posting of the Agenda (requires two-thirds vote of the Board members present, or, if less than two-thirds of the members are present, a unanimous vote of those members present.)

VISITOR PARTICIPATION

Time has been reserved at this point in the agenda for persons wishing to comment for up to three minutes to the Board of Directors on any item that is not listed on the agenda, but within the subject matter jurisdiction of the District. By law, the Board of Directors is prohibited from taking action on such public comments. As appropriate, matters raised in these public comments will be referred to District staff or placed on the agenda of an upcoming Board meeting.

At this time, members of the public may also offer public comment for up to three minutes on any item on the Consent Calendar. While members of the public may not remove an item from the Consent Calendar for separate discussion, a Director may do so at the request of a member of the public.

CONSENT CALENDAR (ITEM NO. 1)

All matters on the Consent Calendar are to be approved by one motion, without separate discussion on these items, unless a Board member or District staff request that specific items be removed from the Consent Calendar for separate consideration.

1. MINUTES OF COMMUNICATIONS AND LEGISLATIVE LIAISON COMMITTEE MEETING HELD OCTOBER 5, 2017

RECOMMENDATION: Approve minutes as presented

END OF CONSENT CALENDAR

MATTERS FOR CONSIDERATION

2. STATE LEGISLATIVE UPDATE

RECOMMENDATION: Agendize for November 15 Board meeting: Take action as appropriate

3. FEDERAL LEGISLATIVE UPDATE

RECOMMENDATION: Agendize for November 15 Board meeting: Take action as appropriate

CHAIR DIRECTION AS TO WHICH ITEMS IF ANY TO BE AGENDIZED AS A MATTER FOR CONSIDERATION AT THE NOVEMBER 15 BOARD MEETING

DIRECTOR'S ANNOUNCEMENTS/REPORTS

GENERAL MANAGER'S ANNOUNCEMENT/REPORT

ADJOURNMENT

COMMUNICATION AND LEGISLATIVE LIAISON COMMITTEE MEMBERS

Philip Anthony - Chair
Vicente Sarmiento - Vice Chair

Shawn Dewane
Cathy Green
Steve Sheldon

Roger Yoh - Alternate 1
James Vanderbilt - Alternate 2
Bruce Whitaker - Alternate 3
Dina Nguyen - Alternate 4
Denis Bilodeau - Alternate 5

Agenda Posting: In accordance with the requirements of California Government Code Section 54954.2, this agenda is posted in the window of the guard shack at the main entrance of the Orange County Water District, 18700 Ward Street, Fountain Valley, CA and on the OCWD website: www.ocwd.com not less than 72 hours prior to the meeting date and time above. All written materials relating to each agenda item are available for public inspection in the office of the Assistant District Secretary. Backup material for the Agenda is available at the District offices for public review and can be viewed online at the District's website: www.ocwd.com.

Accommodations to the Disabled: Pursuant to the Americans with Disabilities Act, persons with a disability who require a disability-related modification or accommodation in order to participate in a meeting, including auxiliary aids or services, may request such modification or accommodation from the District Secretary at (714) 378-3233, by email at jdurant@ocwd.com by fax at (714) 378-3373. Notification 24 hours prior to the meeting will enable District staff to make reasonable arrangements to assure accessibility to the meeting.

Availability of Agenda Material: As a general rule, agenda reports or other written documentation that has been prepared or organized with respect to each item of business listed on the agenda can be reviewed at www.ocwd.com. Copies of these materials and other disclosable public records distributed to all or a majority of the members of the Board of Directors in connection with an Open Session agenda item are also on file with and available for inspection at the Office of the District Secretary, 18700 Ward Street, Fountain Valley, California, during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday. If such writings are distributed to members of the Board of Directors on the day of a Board meeting, the writings will be available at the entrance to the Board of Directors meeting room at the Orange County Water District office.

MINUTES OF BOARD OF DIRECTORS MEETING
WITH COMMUNICATIONS AND LEGISLATIVE LIAISON COMMITTEE
ORANGE COUNTY WATER DISTRICT
October 5, 2017 @ 8:00 a.m.

Director Anthony called the Communications and Legislative Liaison Committee meeting to order in Conference Room C-2 at the District office. The Assistant District Secretary called the roll and reported a quorum as follows:

Committee Members

Philip Anthony
Vicente Sarmiento (absent)
Shawn Dewane (absent)
Cathy Green
Steve Sheldon (absent)

OCWD Staff

John Kennedy – Executive Director
Eleanor Torres – Director of Public Affairs
Alicia Dunkin – Legislative Affairs Liaison
Christina Fuller – Assistant District Secretary

Alternates

Roger Yoh
James Vanderbilt (absent)
Bruce Whitaker
Dina Nguyen (absent)
Denis Bilodeau

CONSENT CALENDAR

The Consent Calendar was approved upon motion by Director Green, seconded by Director Yoh and carried [4-0] as follows.

Ayes – Anthony, Green, Yoh, Whitaker

1. Minutes of Previous Meeting

The minutes of the September 7, 2017 Communications/Legislative Liaison Committee meeting are approved as presented.

MATTERS FOR CONSIDERATION

2. State Legislative Update

State legislative consultants provided a summary on the end of the 2017 California State Legislative Session. Don Gilbert provided an update on SB 606, AB 1668, SB 5 and AB 967. Joe A. Gonsalves and Son provided an update on AB 574, and AB 313.

3. Federal Legislative Update

Federal consultant James McConnell provided an update on congressional activities. Mr. McConnell also provided an update on the U.S. Army Corps of Engineers funding levels. Eric Sapirstein provided an update on recent infrastructure hearings and regulatory reforms that will be rolled out in early October 2017. Holland & Knight provided an update on the FY 2018 appropriations and the upcoming White House briefing on water infrastructure.

4. Public Affairs Outreach Report (September)

Director of Public Affairs Eleanor Torres provided an update on registration for the 2018 Children's Water Festival. Principal Communications Specialist Gina Ayala highlighted recent outreach efforts.

ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 8:40 a.m.

Philip Anthony, Chair

AGENDA ITEM SUBMITTAL

Meeting Date: November 2, 2017

Budgeted: N/A

To: Communications/Leg. Liaison Cte.
Board of Directors

Budgeted Amount: N/A

Cost Estimate: N/A

Funding Source: N/A

From: Mike Markus

Program/Line Item No.: N/A

General Counsel Approval: N/A

Engineers/Feasibility Report: N/A

Staff Contact: E. Torres/A. Dunkin

CEQA Compliance: N/A

POLICY ISSUE: STATE LEGISLATIVE UPDATE

SUMMARY

The Orange County Water District (OCWD; the District) state legislative consultants will provide a report on the current legislative calendar, updates to legislation of interest to the District and funding opportunities.

Attachment(s)

- Joe A. Gonsalves & Son, Edelstein Gilbert Robson & Smith End of Session Report
- SB 606 Hertzberg Fact Sheet

RECOMMENDATION

Agendize for November 8 Board meeting: Take action as appropriate

BACKGROUND

OCWD's state legislative consultants, Edelstein, Gilbert, Robson, and Smith and Joe A. Gonsalves and Son will provide a verbal update on the state legislative calendar, legislation of interest to the District, and their monthly activities on behalf of the District.

Water Conservation Legislation

Current law requires the state, through local water districts, to achieve a 20% reduction in urban per capita water use by December 31, 2020. Early in 2017, the Administration made it known that it sought legislation to mandate post-2020 conservation requirements on local water districts. This caused a flurry of activity in the Legislature and the Governor's Office including the introduction of several bills in the Assembly on various approaches to conservation, the formation of an Assembly Working Group on the issue, and the introduction of very problematic Trailer Bill Language (TBL) by the Administration leading to negotiations in the Governor's Office.

OCWD joined the coalition opposing the TBL and several Assembly bills that would have given inordinate power to the State Water Resources Control Board. In addition, a priority

for OCWD was to advocate for full credit for recycled water. Consequently, on behalf of OCWD, staff and consultants advocated consistently all year for full credit for recycled water. This advocacy included several meetings in the Governor's Office and meetings with Assembly Member Eduardo Garcia, the Chair of the Assembly Water, Parks and Wildlife Committee, as well as a private meeting our consultants had with Senator Hertzberg on August 28, 2017. As Chair of the Senate Natural Resources and Water Committee, Senator Hertzberg is leading the Senate's water conservation negotiations. Our consultant's meeting was solely focused on credit for recycled water and during the meeting it became clear that Senator Hertzberg was attempting to balance his strong support for OCWD's position with his ability to secure the votes necessary for a water conservation agreement. At the time of the meeting the various conservation proposals contained a 10 percent credit that was reduced by 1 percent each year and ultimately 0 percent after 10 years. The water conservation coalition was successful in pushing back on the 10 to zero percent proposal and believe the 10 percent floor in the final proposals was set in response to our meeting with Senator Hertzberg and out of recognition that OCWD and other stakeholders want a percentage much higher than 10 percent.

Recognizing the Legislature adjourned on September 15th and will not reconvene until January 3, 2018, there are two bills awaiting their return in January: SB 606 (Hertzberg) and AB 1668 (Freidman). During the closing week of session it is important to note, both WaterReuse and the Municipal Water District of Orange County (MWDOC) agreed to accept 10 percent credit for recycled water. In addition, several water districts backed out of the opposition coalition and supported the bills. Nonetheless, our consultants continued to oppose the bills and lobby for full credit on behalf of OCWD along with other agencies from around the state.

On the last night of the session (September 15th) the authors of SB 606 and AB 1668 determined that they did not have the support/votes necessary to pass the bills in both houses. Consequently, SB 606 and AB 1668 are now two-year bills and will be revisited in 2018.



EDELSTEIN GILBERT ROBSON & SMITH LLC



Joe A. Gonsalves & Son

Anthony D. Gonsalves

Jason A. Gonsalves

Paul A. Gonsalves

PROFESSIONAL LEGISLATIVE REPRESENTATION

825 L ST. - SUITE 200 - SACRAMENTO, CA 95814-2766

916-441-6297 - FAX 916-441-5041

Email: gonsalves@gonsalves.com

TO: Eleanor Torres
Alicia Dunkin

FROM: Edelstein Gilbert Robson & Smith, LLC
Joe A. Gonsalves and Sons

Date: October 25, 2017

RE: SB606 Update

Water Conservation Legislation

Current law requires the state, through local water districts, to achieve a 20% reduction in urban per capita water use by December 31, 2020. Early in 2017, the Administration made it known that it sought legislation to mandate post-2020 conservation requirements on local water districts. This caused a flurry of activity in the Legislature and the Governor's Office including the introduction of several bills in the Assembly on various approaches to conservation, the formation of an Assembly Working Group on the issue, and the introduction of very problematic Trailer Bill Language (TBL) by the Administration leading to negotiations in the Governor's Office.

OCWD joined the coalition opposing the TBL and several Assembly bills that would have given inordinate power to the State Water Resources Control Board. In addition, a priority for OCWD was to advocate for full credit for recycled water. Consequently, on behalf of OCWD, our firms lobbied consistently all year for full credit for recycled water. This advocacy included several meetings in the Governor's Office and meetings with Assembly Member Eduardo Garcia, the Chair of the Assembly Water, Parks and Wildlife Committee, as well as a private meeting we had with Senator Hertzberg on August 28, 2017. As Chair of the Senate Natural Resources and Water Committee, Senator Hertzberg is leading the Senate's water conservation negotiations. Our meeting was solely focused on credit for recycled water and during the meeting it became clear to us that Senator Hertzberg was attempting to balance his strong support for our position with his ability to secure the votes necessary for a water conservation agreement. At the time of the meeting the various conservation proposals contained a 10% credit that was reduced by 1% each year and ultimately 0% after 10 years. We were successful in pushing back on the 10-0% proposal and believe the 10% floor in the final proposals was set in response to our meeting with Senator Hertzberg and out of recognition that OCWD and other stakeholders want a percentage much higher than 10%.

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Senate Bill 606

Water Efficiency as a California Way of Life

Amended August 21, 2017

ISSUE

Californians know the value of efficiency. Our state sets fuel efficient standards for cars, appliances, and buildings which are modeled around the world. The energy efficiency movement began in California following the oil and energy crisis of the 1970s; those policies continue to save ratepayers money every day.

With water, however, California has no dedicated plan or goal for efficiency. California has historically treated water as an endless resource for homes, farms, industry, and wildlife. But the changing climate, population explosion, and record periods of drought have shown that California's future is one of water scarcity. Tree-ring data shows that California has always experienced drastic fluctuations in water availability, with regular droughts and floods – all part of a natural cycle that is worsening with climate change.

In 2009, the Legislature established a goal of reducing urban water use by 20% in 2020. Shortly thereafter, California began suffering through the worst drought in its statehood. In 2015 alone, the drought cost more than \$2.7 B in economic activity. The Governor ordered emergency measures beyond the 2020 goal, mandating an immediate 25% reduction. The State Water Resources Control Board (SWRCB) and the Department of Water Resources (DWR) together developed rules, targets, and enforcement mechanisms to achieve these cuts evenly across the state. However, local governments and water agencies expressed frustration about the lack of flexibility on how cuts were achieved and the lack of credit given to those agencies that had already made efficiency a priority.

Even as the historic drought lifted in 2017, many questions remain about how the state and locals will respond to the next water shortage. There is no consistent urban water efficiency standard, and the state lacks key data on agricultural water uses as well as short- and long-term water contingency planning tools. In order to prepare California for emergencies and to adapt to our changing climate, we must begin focusing on using water more efficiently, just as we do with fuels and energy.

SB 606 (Skinner / Hertzberg)

Senate Bill 606 (Skinner / Hertzberg) establishes, for the first time, permanent water efficiency standards and goals across the state to be met by 2026. The SWRCB and DWR will also develop uniform outdoor water efficiency standards, based on local climate zones and annual precipitation in the region.



The bill also requires all urban water agencies to submit water contingency plans and to update their urban water management plans to focus on achieving the newly-established water efficiency goals across all sectors – residential, commercial, industrial, and outdoor. Water agencies will also need to meet a target for reducing water lost through leaky pipes in their systems.

Addressing rural water use, SB 606 requires agricultural water users to quantify the water savings of actions taken to increase the efficiency of their water uses, and to report new water use data to the state. Agricultural water suppliers will also be required to improve their system management and reduce overall water losses.

Importantly, SB 606 also retains key control of establishing water efficiency standards in the legislature, rather than ceding this authority to state agencies. The bill provides one-time authority to the SWRCB to adopt regulations for water use efficiency, and builds in specified check-ins with the legislature before any additional authority is granted. The bill further requires the Legislative Analyst's Office to review implementation of the act and gives greater flexibility to local water agencies to determine the best way to meet their water efficiency goals.

AGENDA ITEM SUBMITTAL

Meeting Date: November 2, 2017

Budgeted: N/A

To: Communications/Leg. Liaison Cte
Board of Directors

Budgeted Amount: N/A

Cost Estimate: N/A

Funding Source: N/A

From: Mike Markus

Program/Line Item No.: N/A

General Counsel Approval: N/A

Engineers/Feasibility Report: N/A

Staff Contact: E. Torres/A. Dunkin

CEQA Compliance: N/A

POLICY ISSUE: FEDERAL LEGISLATIVE UPDATE

SUMMARY

Federal legislative consultants James McConnell, Eric Sapirstein and Holland and Knight will provide a summary of Congressional activities that are expected this fall.

Attachment(s):

- James McConnell October 2017 Report
- ENS Resources October 2017 Report
- Holland & Knight October 2017 Report

RECOMMENDATION

Agendize for the November 15 Board meeting: Take action as appropriate.

RELEVANT STANDARDS

- Forge long-term, positive and proactive relationships with elected officials and policy makers.
- Keep abreast of federal funding opportunities and legislation that may impact OCWD, other water agencies and/or special districts.

DISCUSSION/ANALYSIS

Updates from Federal Consultants

James McConnell

James McConnell will provide a review of congressional action to pass a continuing resolution to run until early December 2017, and the prospects after that for an omnibus spending bill for the remainder of Fiscal Year (FY) 2018. Mr. McConnell will also provide an update on the U.S. Army Corps of Engineers funding levels.

ENS Resources

Eric Sapirstein will provide an update on recent infrastructure hearings and regulatory reforms that will be rolled out in early October 2017. An update on Water Infrastructure and Finance Act (WIFIA) funding will also be provided.

Holland & Knight

Holland & Knight will provide an update on the FY 2018 Appropriations, committee hearings on a potential infrastructure package, and the President's executive order to streamline permitting processes.

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ORANGE COUNTY WATER DISTRICT
Washington Report
October 2017

October marked the start of the new federal fiscal year. It also is the start of the last quarter of the calendar year and the end of the first session of the 114th Congress. Given that Republicans control the House of Representatives, the Senate and the White House, there was little of significant accomplishment to point to this year.

A Continuing Resolution (CR) passed in September will keep the Federal Government operating until early December. After that either another CR will need to be enacted or an Omnibus appropriations bill containing all or some of the 12 annual spending bills Congress must pass. While funding remained adequate for the programs of most interest to OCWD—the Army Corps of Engineers, the State Revolving Loan Funds (SRF) and WIFIA at the Environmental Protection Agency, and Title XVI in the Bureau of Reclamation—there were no programmatic changes of interest to any of them.

Likewise, plans for major public works infrastructure legislation continued only as a talking point for future congressional action. Legislative proposals in this regard continued to play second fiddle to attempts to repeal the Affordable Care Act or talk of tax reform.

With this as background, OCWD's decision this year to focus federal efforts on federal grant programs and administrative actions administered by the departments and agencies of the government was a smart one. OCWD was chosen to apply for WIFIA support for future water infrastructure financing. OCWD and OCSD partnered to apply for Title XVI grant funds. The District continued to work collaboratively with the Corps of Engineers on the Prado Feasibility Study and ongoing incidental water conservation at Prado Dam. And, steps were taken to ascertain local agency interest in reforming the SRF formula distributing funds to the various states.

Meanwhile this month, EPA Administrator Scott Pruitt issued an agency-wide directive designed to end “sue and settle” practices within the agency, attempting to provide a higher level of public participation and transparency in EPA consent decrees and settlement agreements. According to the EPA, the directive will increase transparency, improve public engagement, and provide accountability to the American public when considering a settlement agreement or consent decree by:

1. Publishing any notices of intent to sue the agency within 15 days of receiving the notice;
2. Publishing any complaints or petitions for review in regard to an environmental law, regulation, or rule in which the agency is a defendant or respondent in federal court within 15 days of receipt;
3. Reaching out to and including any states and/or regulated entities affected by potential settlements or consent decrees;
4. Publishing a list of consent decrees and settlement agreements that govern agency actions within 30 days, along with any attorney fees paid, and update it within 15 days of any new consent decree or settlement agreement;
5. Expressly forbidding the practice of entering into any consent decrees that exceed the authority of the courts;
6. Excluding attorney's fees and litigation costs when settling with those suing the agency;
7. Providing sufficient time to issue or modify proposed and final rules, take and consider public comment; and
8. Publishing any proposed or modified consent decrees and settlements for 30-day public comment, and providing a public hearing on a proposed consent decree or settlement when requested.

Republicans who have long warned that environmentalists are using court settlements to push regulatory agendas have broadly praised the new directive. Environmentalists, though, criticized Pruitt for allowing industry to sign off on settlements and court orders. Others argue the directive will make it difficult on lawsuits filed against EPA to enforce missed mandatory deadlines already in law which are typically settled with a court-sanctioned schedule.

At the same time, the House was poised to take up legislation late in October that would make law settlement policies similar to those outlined in two recent memos issued by EPA and the Department of Justice (DOJ). One bill aims to halt what critics call the practice of "sue and settle," the other would limit who could get money in a settlement agreement. The Judiciary Committee passed both measures earlier this year.

H.R. 469, the "Sunshine for Regulations and Regulatory Decrees and Settlements Act" introduced by Representative Doug Collins (R-GA), would require agencies to publicly post and report to Congress on lawsuits, consent decrees or settlement agreements. It would also prohibit same-day filing of complaints and pre-negotiated settlements.

H.R. 732, the "Stop Settlement Slush Funds Act," a bill by Congressman Bob Goodlatte (R-VA), chairman of the Judiciary Committee, would bar money from settlements negotiated with the United States from going to any entity other than the federal government. Justice Department settlements would be limited to those that provide

restitution for harm "directly and proximately caused by the party making the payment" and would block DOJ from requiring donations to third parties as part of legal settlements.

House Judiciary Chairman Goodlatte last week called for the full House to take up the sue-and-settle bill after EPA issued a directive aimed at curbing legal settlements with environmental groups (see above).

Along with the two settlement bills, the House is also expected to consider under suspension a bill to boost Congress' subpoena power. H.R. 4010, sponsored by Representative Darrell Issa, would codify a requirement that recipients, both private individuals and those in the executive branch, comply with congressional subpoenas. The bill also mandates that congressional subpoenas and enforcement cases be heard in an expedited manner by federal courts, authorizes courts to impose monetary penalties against federal agency chiefs for not complying with subpoenas and allows a committee to request a three-judge panel of a district court be convened to hear a case.



MEMORANDUM

TO: Alicia Dunkin
FROM: Eric Sapirstein
DATE: October 25, 2017
SUBJECT: Washington Update

The past month was notable for the ongoing effort to move presidential nominations through the Senate with an emphasis on natural resources and environmental policy positions. The priority to renew the Water Resources Development Act in 2018 kicked off in the House. Infrastructure policy options began to take shape as the White House convened a briefing into the outlines of a water infrastructure component of any national infrastructure policy. And on the tax policy front, the expectation of passage of a budget resolution means that an expedited voting process in the Senate would avoid the need for a super majority, requiring just a simple majority of 51 votes. The following details the status of these and other issues of interest to OCWD.

Infrastructure Policymaking Becomes a 2018 Priority

One of the worst kept secrets in Washington was officially stated during a White House briefing on water infrastructure policymaking. In the briefing that we attended, Deputy Chief of Staff to the President stated that infrastructure legislation would be a priority after a tax bill is sent to the President later this year, leaving no time to move a comprehensive infrastructure bill in the few weeks that will be left in session. Additionally, the briefing clarified that an actual legislative proposal was unlikely to be sent to Congress. Instead, a plan would be released by the White House for Congress to consider. In the briefing, the administration's top infrastructure policy official, D.J. Gribbin, Assistant to the President, provided an outline of the administration's current thinking on how a federal water infrastructure program would be pursued. Citing the priority to redesign the way

projects are funded, he highlighted an approach that would encourage highly leveraged assistance, like that provided under WIFIA, through a one-time infusion of funding that could generate billions of dollars in leveraged assistance. In an interesting response to questions, Gribbin indicated that the focus is not on boosting existing funding of programs like the SRF or Title XVI/WIIN. From a programmatic approach, it also appears that this new tact will rely on project funding decisions that: 1) minimize reliance on federal assistance by assigning a higher priority for assistance to those projects that demonstrate less funding demands on federal assistance, and 2) demonstrate full life cycle project benefits, if funded. And in the case of projects that are considered high risk and transformative, the federal government would take the lead on project financings and management. Presumably, these are water projects that would not be constructed without direct federal involvement. Last, speaking to the issue of projects being constructed in a timely fashion, USEPA Administrator, Scott Pruitt, indicated that regulatory reforms to ensure that project permitting etc. would be approved and allow a project to move to construction, within six months of a requested permit, will also be a critical element of the infrastructure package to reduce infrastructure costs.

WIFIA Update

Over the past month, we met with senior USEPA WIFIA officials to discuss the status of the program. Our discussion revealed that selected projects, including OCWD, are of such high caliber that the processing fees are expected to be less than originally estimated, lowering the overall cost to a project sponsor during a loan closing with the agency. The officials also noted that economic risk modeling of the selected projects indicated that the leveraging ratio is almost 1:100 (92%), effectively boosting the total dollar value of project financings to \$2 billion. This is important because we anticipate an effort on the part of WIFIA supporters to urge Congress to amend WIFIA's pilot status to become a permanently authorized program. The ability to demonstrate the program's financing capacity is vital to this expected push.

Tax Reform Efforts Begin in Earnest with Impacts to State and Local Financing

The passage of a budget resolution will allow the use of budget reconciliation procedures to move a tax cut bill through Congress with limited debate, allowing a window of opportunity to complete action before Christmas. This timetable depends on two factors. First, the details of a tax bill must be ironed out by the two chambers after passage of each chamber's tax bill. Second, under the budget reconciliation procedure, "paygo's" to offset revenue losses from a tax cut must be found. One approach that could have significant impact to OCWD ratepayers is the option to eliminate the deduction of state and local taxes from federal taxes. The other option (that currently is not identified) is elimination or restriction on the use and availability of municipal tax-exempt financings. With approximately \$2 trillion in revenue losses expected from proposed tax cuts, either of these two "paygo's" could deliver almost \$1.5 trillion dollars in offsets. Because of the adverse impact to OCWD ratepayers (on average \$15,000-\$18,000 in deduction losses to individuals), we provided staff with a draft letter stating concerns over any elimination of these tax expenditures.

Nominations Continue to Slowly Advance

The Senate Committee on Environment and Public Works moved a step closer to providing USEPA with a complete roster of senior management. The committee, on a party-line voice vote, approved the nominations of Assistant Administrators for the Offices of Water, Chemicals and Pollution Prevention, and Air. The Office of Water nominee, David Ross, who currently serves as the Assistant Attorney General for the State of Wisconsin, has not generated serious opposition and should receive Senate confirmation. In discussions with Office of Water staff, we learned that meetings with Ross have been positive. He has displayed a comprehensive understanding of the office's mission and statutory obligations, according to staff.

One other nomination was announced this past month. The president nominated Andrew Wheeler to be USEPA's Deputy Administrator. Wheeler, if confirmed by the Senate, would manage the agency on a day-to-day basis for the Administrator. Wheeler previously served as the Senate Committee on Environment and Public Works' Staff Director for then Chairman James Inhofe (R-OK).

Meanwhile, the highly-anticipated Senate vote on Brenda Burman to be the next Commissioner of the U.S. Bureau of Reclamation remains on hold in the Senate. Timing for a floor vote remains unknown, but it is expected that a vote will occur by Thanksgiving.

Sue and Settle Policy Directive Issued

The questionable practice of NGO stakeholders to sue USEPA on proposed regulations and then enter into closed meetings with agency officials to reach an agreement on a rule's content has been officially closed-down. Administrator Scott Pruitt issued an agency-wide directive requiring transparency in the development of any settlements. In the event of sue and settle initiatives, the agency will now publish the initiative to alert the public prior to any discussions, allow input from the public on any settlement proposals, and make revisions to settlement proposals based upon public input. Additionally, financial awards to NGO's that sue would be prohibited as part of any settlement agreement.

WRDA 2018 Kicks-Off

House Committee on Transportation & Infrastructure Chairman Bill Shuster (R-PA), made good on his promise to renew WRDA every two years. To this end, the first hearing will take place on the needs of the water resources community on October 27 and will likely be the first of many hearings. The chairman has an ambitious schedule to develop a draft bill in the coming months to allow for committee action in early 2018. The reauthorization effort is important because it is expected to review USACE's implementation of provisions associated with WIIN, including the water recycling provisions as well as progress in complying with water supply reliability mandates such as the use of USACE facilities for water storage like Prado.

WIIN and Title XVI Implementation

Concerns over the way in which USBR is implementing WIIN's water recycling provisions resulted in a California stakeholders meeting with staff to Senators Feinstein and Harris, Representative Napolitano, the Speaker of the House's energy water advisor, and House and Senate committee staff with jurisdiction over water recycling. The meeting reviewed the current implementation of water recycling programs by USBR and the fact that USBR has segregated funding between Title XVI and WIIN authorities. The congressional staff indicated that it was congressional intent, on the part of WIIN sponsors, to create a new and more efficient water recycling assistance program. However, the staff indicated before making a recommendation on a legislative fix to the members, it is necessary to understand what the water community believes is appropriate. As noted previously, some of the congressional staff believe that a directive to USBR to combine the Title XVI program into the WIIN approach would not require an amendment to existing law, instead relying on directive language in USBR's appropriations bill. However, we understand that a Congressional Research Service Report on the issue of directing a change in program management has been conducted and the conclusion may be at odds with the staff position. The report has yet to be released.

Orange County Water District

October 2017 Report

Appropriations Update: Congress has until December 8 to finalize the fiscal year (FY) 2018 appropriations bills. While the House has passed all 12 FY 2018 bills, the Senate has proceeded at a slower pace. The Senate Appropriations Committee was expected to mark up the ninth and tenth of the 12 total spending bills during the week of October 16—Interior Appropriations and Homeland Security Appropriations—but hearings were postponed due to Appropriations Committee Chairman Thad Cochran’s illness, and the hearings have not yet been rescheduled.

Congress Passes FY 2018 Budget Resolution Paving the Way for Tax Reform Consideration: On October 19, the Senate passed its FY 2018 [budget resolution](#) in a [51-49](#) party line vote, which paves the way for Republicans to pass tax reform through reconciliation—a procedural tool that requires a simple majority vote threshold (50 votes) instead of the 60 votes normally required under regular order. No Democrats voted in favor, and only one Republican Senator voted in opposition, Senator Rand Paul (R-KY). The House passed its [budget resolution](#) by a party line vote of [219-206](#) on October 5. No Democrats voted in favor of the budget resolution.

The Senate bill included a last minute amendment from Senate Budget Committee Chairman Michael Enzi (R-WY) that modifies the House budget resolution to allow it to bypass a conference committee so the House can consider the Senate budget resolution this week. Chairman Enzi’s amendment also modified the House budget resolution to eliminate the \$203 billion in mandatory spending cuts it offered, and replaced the House’s deficit neutral tax cut with a cut that would add \$1.5 trillion to the deficit over the next ten years. The amendment was adopted in a [52-48](#) party line vote.

The Senate budget resolution includes two provisions to allow infrastructure legislation. One provision that allows the House to adjust its budget funding levels for legislation “that invests in national infrastructure, to the extent that such measure is deficit neutral for the total of fiscal years 2018 through 2027.” The other provision allows the Senate to adjust its budget funding levels for legislation relating to “infrastructure, transportation, and water development... to the extent that such legislation would not increase the deficit over either the period of the total of fiscal years 2018 through 2022 or the period of the total of fiscal years 2018 through 2027.”

On October 26, the House passed the Senate budget resolution by a vote of [216-212](#), with all Democrats and 20 Republicans voting against the measure. The House Ways and Means and Senate Finance Committees are busy drafting their tax reform bills. Congressional leadership wants to pass a bill before Christmas.

White House Water Meeting: Holland & Knight arranged an invitation for Orange County Water District to attend the White House Water meeting on October 10, and Mike Markus was able to attend the meeting. EPA Administrator Scott Pruitt, DJ Gribbin, Special Assistant to the President for Infrastructure Policy; Deputy Chief of Staff Rick Dearborn; and Alex Herrgott, Council on Environmental Quality (CEQ)'s Associate Director for Infrastructure presented the

Administration's priorities for their infrastructure proposal. EPA Administrator Scott Pruitt said that *reforming permitting* is a top priority for the proposal. The President wants every permit to be completed within six months by the end of 2018. Mr. Gribbin stated that the current infrastructure system is broken. The President wants to work to leverage local and state funding for sustainable infrastructure projects. The infrastructure proposal will provide \$299 billion to leverage \$1 trillion. The infrastructure principles are organized into five categories:

- 1) Incentives: Incentivize state and locals to financing its infrastructure (i.e. water rates need to be market based).
- 2) Rural: Block grant to states. All infrastructure—energy, transportation, water, broadband.
- 3) Transformational projects
- 4) Innovative Financing: Increase size and scope of EPA WIFIA program
- 5) Project streamlining

President Nominates Army Corps of Engineers Chief: President Trump [announced](#) on October 3 that he has chosen R.D. James to serve as Assistant Secretary of the Army (Civil Works) for the Army Corps of Engineers. James previously served as a water resources adviser under several presidential administrations and Congress. He has most recently worked as a civilian member and engineer on the Mississippi River Commission, appointed by President Ronald Reagan in 1981. He was also president of the Southern Cotton Ginners Association. His confirmation will be considered by the Senate Environment and Public Works Committee soon.

Appropriations Update: Congress has until December 8 to finalize the fiscal year (FY) 2018 appropriations bills. While the House has passed all 12 FY 2018 bills, the Senate has proceeded at a slower pace. The Senate Appropriations Committee was expected to mark up the ninth and tenth of the 12 total spending bills during the week of October 16—Interior Appropriations (funds EPA and Department of Interior) and Homeland Security Appropriations—but hearings were postponed due to Appropriations Committee Chairman Thad Cochran's illness, and the hearings have not yet been rescheduled.