



TO: Monterey County Board of Supervisors

FROM: Brent R. Heberlee

DATE: November 27, 2012

RE: 2012 Federal Legislative Report

As the County's federal lobbyist in Washington, D.C., my principal function is to provide strategic advice to the Legislative Committee and County staff on federal issues affecting the County. I am responsible for keeping the Legislative Committee and staff apprised of federal issues impacting Monterey County and, at their direction, advocating the County's position before Congress and Executive Branch agencies. I provide reports and analyses of federal legislation to the Legislative Committee and County staff, participate in weekly teleconferences with County staff and state lobbyists, and participate in monthly teleconferences with the Legislative Committee.

The following items are federal legislative and lobbying matters with which I have been involved this year to assist the County in executing its 2012 Legislative Platform:

Budget and FY2013 Appropriations Process

Significant disputes over funding levels for FY2013 appropriations bills forced House and Senate leaders to abandon any hope of completing individual spending bills this year. The Republican majority in the House had pressed for a \$1.028 trillion limit on appropriations bills, which represented a \$19 billion gap with the Democrat-controlled Senate that was unlikely to be resolved before the elections. Senate Majority Leader Harry Reid and House Speaker John Boehner reached an agreement in early August on a six-month continuing resolution (CR) for FY2013, using the \$1.047 trillion discretionary spending limit agreed to in last year's deficit reduction law. The deal was approved by Congress and signed into law by the President in September, thereby avoiding a spending showdown before the November elections and during the current lame-duck session. The FY2013 continuing resolution will keep the federal government operating through March 27, 2013.

The 2011 debt limit law imposed caps on discretionary programs that will reduce their funding by more than \$1 trillion over the ten years from 2012 through 2021. It also established a Joint Select Committee on Deficit Reduction to propose legislation reducing deficits by another \$1.2 trillion over that period, and established a backup "sequestration" procedure to increase the incentive on the Joint Committee to reach a compromise. Because the Joint Committee failed to achieve its goal, sequestration — a form of automatic cuts that apply largely across the board — is now scheduled to occur starting in January 2013 and to cover the period through 2021. For 2013 the across-the-board cuts will mean about an 8.4 percent cut in most non-defense discretionary programs, a 7.5 percent cut in defense programs, an 8.0 percent cut in mandatory

programs other than Medicare, and a 2.0 percent cut in Medicare provider payments for a total of \$109 billion in cuts.

House Republicans have proposed and passed legislation to impose even greater reductions to discretionary spending levels while preserving current spending levels for defense programs. This measure has no chance of passing the Senate and faces a veto threat from the White House.

House and Senate leaders and the White House are currently negotiating a deficit reduction package in a lame duck session that would contain additional spending reductions and new tax increases to head off the so-called “fiscal cliff” that confronts our economy at the end of the year. It is expected that this package will include a repeal of the automatic spending cuts.

Natividad Medical Center Public Authority

Earlier this year, Natividad Medical Center (NMC) gave serious consideration to pursuing a state legislative proposal that would have established a new governance structure for the hospital. As part of its due diligence, NMC and the County had to determine whether NMC would be able to maintain existing federal funding streams under the State of California’s new Medicaid waiver. More specifically, NMC had to ensure that its new governance structure would have met the regulatory guidelines established by the federal Centers for Medicare and Medicaid Services (CMS) for public hospitals.

During their annual trip to Washington, D.C., I arranged for Supervisors Potter and Armenta and County staff, led by County Counsel Charles McKee, to meet with several senior CMS officials to discuss NMC’s proposal to establish a public authority and its potential merger with SVMH.

Carmel Lagoon

I continue to consult regularly with County Legislative, RMA, and WRA staff about project development, regulatory permits, and state and federal funding opportunities to address the periodic flooding that occurs in the vicinity of the Carmel Lagoon. I recently arranged for RMA and WRA staff to speak with Rep. Farr’s office about their concerns with EPA’s interpretation of an FY2010 earmark that Rep. Farr directed to the County for flood control work in the Carmel Lagoon. The County will not receive nearly \$500,000 from EPA until the two parties can agree on a scope of work for the project.

Gang Intervention Efforts

Monterey County’s ability to secure federal funding for local law enforcement and youth violence prevention programs has become increasingly difficult over the past two years for several reasons. First, for the last three budget cycles (FY2011-13), Congress has imposed a moratorium on Congressionally-directed spending, commonly known as “earmarks.” Since FY2005, the County has requested and received a steady stream of earmarked funding for its top two anti-gang programs, the Gang Task Force (GTF) and the Silver Star Gang Prevention and

Intervention Program (Silver Star). Second, both Congress and the Obama Administration agreed to cuts in domestic discretionary spending as part of the deal to increase the debt limit in the summer of 2011, and these cuts are directly impacting programs designed to assist state and local governments. The same deal also put in place a trigger for even greater cuts to these types of programs, including defense spending, if Congress cannot find a way to achieve \$1.2 trillion in debt reduction before the end of the year. Third, the philosophical debate over whether the federal government should even be involved in funding state and local law enforcement initiatives has become more pronounced in Congress, where many conservative members of the House and Senate have successfully fought to eliminate funding for state and local law enforcement in the annual appropriations process.

The County has received considerable support at the federal level for gang violence reduction programs. Since 2006, the County has received nearly \$11 million in earmarks for GTF and Silver Star, with both programs having been championed by Rep. Sam Farr and Senators Feinstein and Boxer in the annual appropriations process. The County has gone to great lengths to highlight to the congressional delegation the detrimental effects of gang violence on young people, and this effort ultimately led Rep. Farr to recommend to the White House the inclusion of Monterey County and the City of Salinas in the National Forum on Youth Violence Prevention. As one of six participating communities from across the country, the National Forum has provided the County with a great opportunity to learn about effective gang violence strategies in other communities and to explore how federal agencies can better support local efforts.

The County's federal advocacy strategy has been forced to adapt to the new reality of declining budgets and a moratorium on earmarks. The County has shifted its focus from earmarks to competitive grants as the preferred method of securing federal funds for anti-gang initiatives. As discussed earlier, the budgets for many of the grant programs that could benefit the County are under assault, so the County's first order of business is to lobby our congressional delegation to maintain adequate funding levels for these programs. The next step is to identify which grant programs are a good fit for the County's anti-gang initiatives, such as Silver Star. I regularly identify and transmit to the County new federal grant opportunities that relate in some way to the issue of youth violence.

The County is also attempting to leverage its participation in the National Forum on Youth Violence Prevention in the grant application process. Along those lines, I was able to arrange a call last May for Supervisor Armenta and County staff with officials from the U.S. Department of Justice to discuss funding opportunities for Silver Star. I also arranged for Supervisors Potter and Armenta and County staff to meet with senior White House staff to discuss Silver Star.

Surface Transportation Reauthorization Funding

After nine short-term extensions, Congress gave final approval to MAP-21, the federal surface transportation reauthorization bill, at the end of June. It is a 27-month bill that will go through September 30, 2014, the end of FY 2014. It provides a slight funding increase – the

federal highway program is funded at \$39.699 billion for FY 2013 and \$40.256 for FY 2014 and the transit program for \$10.584 in FY 2013 and \$10.701 in FY 2014. The off-system bridge program, which has provided \$650 million annually to bridges not on the federal-aid system, mainly county-owned bridges, was retained in the final legislation. A series of provisions relating to project or environmental streamlining were included in the legislation, which should lead to a faster approval process for federally funded highway and bridge projects on county highways.

Veterans Cemetery

I drafted a letter from the BOS to the U.S. Department of Veterans Affairs in support of establishing a national veterans cemetery at the former Fort Ord. Rep. Farr cited the letter as evidence of the County's support for the cemetery at a committee hearing attended by VA Secretary Shinseki.

Tidball Store

The Tidball Store in Jolon, California was placed on the National Register of Historic Places in 1976 and was subsequently donated to Monterey County. Although the building belongs to the County, Fort Hunter Liggett (FHL) owns the one-acre parcel where it is located. In February 2007, the County received a proposal from the Lockwood Vintners to sublease the Tidball Store for use as a coffee shop, deli and wine tasting venue. In addition, a portion of the building was to be used by the San Antonio Valley Historical Association for local history exhibits. The Vintners planned to rehabilitate the building in accordance with the requirements for the treatment of historic properties.

Since 2007, the County has been engaged in discussions with FHL about its options for acquiring the one-acre parcel. Until recently, FHL and Army HQ had taken the position that the County was responsible for all of the conveyance costs associated with the lease or transfer of the property, and these costs proved too burdensome for the County to move forward with the acquisition. According to County staff, the cost of the environmental reports and other conveyance documents is upward of \$100,000, an amount that County Parks simply does not have in their budget.

In 2010, County staff and I contacted Rep. Farr to request his assistance with this issue. Over the last two years, Rep. Farr and his staff tirelessly pressed the Army in private meetings and committee hearings to find a solution that worked for the County. At Rep. Farr's request, the Chairman and Ranking Member of the House Armed Services Committee sent a letter to the Army in June in support of the conveyance of the property. Rep. Farr met again with senior staff of the Army several weeks ago, and he reported to the County that the Army has agreed to include legislative language in its FY2014 budget request to Congress that authorizes the conveyance of the Tidball Store property to the County at no cost. Although this matter is far from completed, at this stage it looks like a very positive outcome for the County, due in large part to the assistance of Rep. Farr and his staff.

State Criminal Alien Assistance Program (SCAAP) Policy Change

The Department of Justice (DOJ) announced in June a change in the State Criminal Alien Assistance Program (SCAAP) that will prohibit SCAAP funds from being used to reimburse localities for foreign-born criminal aliens housed in jails that have been classified as "unknown inmates" by the Department of Homeland Security's Immigration and Customs Enforcement (ICE) agency. This is a significant change to the SCAAP reimbursement formula, and will heavily impact counties across the nation. CSAC estimates that Monterey County could lose in excess of \$500,000 per year as a result of this policy change.

In past years, DOJ has provided reimbursement credit to states and localities that have incurred costs for detaining individuals whom they believe to be undocumented criminals. In doing so, the agency has acknowledged the fact that undocumented individuals constitute a high percentage of foreign-born inmates of unknown immigration status because these individuals – who have never before been apprehended and screened by federal immigration agents – will not be in any federal immigration database. It has been estimated that 80 percent of inmates of unknown immigration status in county jails are undocumented.

At the request of Monterey County, Rep. Sam Farr joined over 60 of his colleagues in signing a letter to Attorney General Eric Holder expressing concern with the SCAAP policy change. Also at the County's request, Senator Dianne Feinstein sent a similar letter to AG Holder expressing her strong opposition to the proposed changes. We were pleased to learn from Sen. Feinstein's office that DOJ has agreed to postpone the implementation of the new reimbursement policy for one year, which should provide enough time for Congress to take legislative action, if necessary, to reverse the policy.

Payment in Lieu of Taxes (PILT) Reauthorization

Congress passed legislation in June that fully funds the PILT program for FY2013. PILT are Federal payments to local governments that help offset losses in property taxes due to nontaxable Federal lands within their boundaries. Monterey County recently received its FY2012 PILT payment in the amount of \$834,251, and it should receive a slightly higher payment in FY2013 as a result of enactment of the aforementioned legislation.

Pinnacles National Park Act

On July 31st, the House unanimously approved legislation (H.R. 3641) sponsored by Rep. Sam Farr and co-sponsored by Rep. Jeff Denham to re-designate the Pinnacles National Monument in Monterey and San Benito Counties as a national park. Senators Boxer and Feinstein have introduced similar legislation (S. 161) in the Senate. Once the House-passed bill was received in the Senate, Majority Leader Reid attempted to pass it by unanimous consent before Congress adjourned for the August recess. An unknown senator objected to the consent request and the bill remains on the Senate calendar and available for consideration.

I prepared a letter of support for H.R. 3641 for the BOS that was sent to Rep. Farr prior to the House Natural Resources Committee hearing, and I remain in contact with staff on the Senate Energy and Natural Resources Committee and in the Majority Leader's office about the bill.

Fort Ord National Monument

On April 20, 2012, President Obama signed a Proclamation to designate the Fort Ord National Monument on federal land located at the former Fort Ord military base. The Bureau of Land Management (BLM) is the federal land management agency responsible for administering the national monument and managing the public lands for conservation and recreational opportunities.

I worked closely with officials in the White House and Department of the Interior and with national land conservation organizations to advance the monument designation process. I assisted the County in drafting a resolution and letter from the BOS to President Obama expressing support for the monument designation. During their trip to Washington, D.C. in March, I arranged meetings for Supervisors Potter and Armenta and County staff with Vice President Biden's Deputy Chief of Staff and the BLM Director to discuss County and community support for the monument. As part of the same trip, I was able to arrange for County Counsel Charles McKee to meet President Obama, along with several other Monterey County residents, at a public lands conference at the Interior Department. Throughout the entire process, I worked closely with the primary outside interest group supporting the monument designation, the Conservation Lands Foundation, on grass-roots advocacy targeted at the White House.

BEACH Act Funding

I drafted a letter to Rep. Farr from the BOS expressing concern over the President's budget proposal to eliminate funding for BEACH Act grants. These grants provide coastal states and counties with funds for water quality monitoring and notification. The Monterey County Health Department receives grants under this program each year to monitor and test water quality at public beaches in the County.

Federal Grant Opportunities

The current moratorium on earmarks has required the County's legislative team to focus more heavily on federal grant opportunities as a source of funding for County projects. We are working with County department heads to ensure that they notify the legislative team about grant applications they are pursuing so an appropriate advocacy plan can be developed as needed to support the application.