
1909 K Street, NW
12th Floor
Washington, DC 20006-1157
TEL 202.661.2200
FAX 202.661.2299
www.ballardspahr.com

Brent R. Heberlee
Tel: 202.661.2249
Fax: 202.661.2299
heberlee@ballardspahr.com

MEMORANDUM

TO Legislative Committee

FROM Brent R. Heberlee

DATE November 6, 2019

RE Federal Legislative Update

This memo provides a Federal Legislative Update on the items appearing on the agenda for the November 12, 2019, Legislative Committee meeting.

1. Federal Emergency Management Agency (FEMA) High Hazard Potential Dam Program

I have been working with the Water Resources Agency to identify potential sources of funding for repairs to the San Antonio Dam spillway. FEMA administers the Rehabilitation of High Hazard Potential Dams Grant Program, which provides technical, planning, design, and construction assistance to states and counties for repairs to eligible non-federal dams with “high hazard potential.” In the current fiscal year, Congress appropriated \$10 million for the program, which resulted in approximately \$1.5 million allocated to projects in California. Congress is likely to appropriate a similar amount to the program in FY2020, although the program is authorized to receive much more funding – up to \$40 million.

I have been in contact with Senator Feinstein’s office about the program, and they are working to increase the funding levels, in addition to pursuing legislative changes to the program that would allow counties to receive grants directly from FEMA rather than having them passed through the state. Although the San Antonio Dam spillway repair project would likely be eligible for funding, it’s doubtful that such a low award amount based on current funding levels would justify the effort that WRA would have expend to submit a grant application.

2. Water Infrastructure Improvements for the Nation (WIIN) Act re: Interlake Tunnel

We remain in contact with Bureau of Reclamation officials about WRA's interest in pursuing WIIN Act Section 4007 funding for the Interlake Tunnel Project. In order to be eligible for funding, WRA must complete a feasibility study for the project by the end of July 2020. The feasibility study is a substantial document with a significant cost associated with it. WRA should know by the end of the year whether it can meet this deadline and move forward with other project requirements.

3. Bureau of Land Management (BLM) Oil and Gas Leases

The Center for Biological Diversity and Sierra Club have sued the BLM to challenge its October 4th decision to allow oil and gas leasing to resume on 725,000 acres of federal land and mineral estate across the Central Coast. The conservation groups contend that BLM's proposed development on the 725,500 acres was much more than the agency had previously suggested in its draft plan. The current plan includes 91% of the agency's planning area and nearly doubled the mineral estate that had been proposed in the agency's prior alternative.

The BLM has not held a lease sale in California since 2013, when a judge ruled that the agency violated the law when it issued oil leases in Monterey and Fresno counties without considering the risks of fracking. The lawsuit comes after the same conservation groups successfully challenged the Obama administration's Central Coast lease sale for 2,500 acres in Monterey and Fresno counties by arguing that BLM had not specifically analyzed the impact of fracking.

4. H.R. 4916, Farm Workforce Modernization Act

Rep. Panetta recently introduced bipartisan legislation to establish a new program for agricultural workers to earn legal status through continued agricultural employment and contribution to the U.S. agricultural economy. The Farm Workforce Modernization Act would provide qualified farmworkers with 5-year renewable agricultural visas if they can show at least 180 days of agricultural employment over the last 2 years. The visas can be renewed by working at least 100 days in agriculture each year. Individuals have the opportunity to apply for Legal Permanent Resident (LPR) status if they pay a \$1000 fine and can show that they have worked in agriculture in the U.S. for at least 10 years before enactment and 4 years after enactment. If they have worked in agriculture in the U.S. for less than 10 years, they must work an additional 8 years in agriculture before being eligible to apply for LPR status.

The legislation also makes reforms to the H-2A program, and it would establish a mandatory, nationwide E-Verify system for all agricultural employment, with a structured phase-in and guaranteed due process for authorized workers who are incorrectly rejected by the system.

The bill currently has 44 bipartisan cosponsors, and it is supported by the United Farm Workers, the California Farm Bureau Federation, and the United Fresh Produce Association.

5. Supplemental Nutrition Assistance Program (SNAP) (CalFresh in California)
Proposed Eligibility Rules

The Trump administration has proposed several new rules over the past year for the SNAP program, known as CalFresh in California, that will result in billions of dollars in lost food assistance for Americans who struggle with hunger. The new rules would prohibit states from expanding who is eligible for the program beyond the so-called federal baseline and take away state flexibility to determine their own Standard Utility Allowance methodologies. Under the latest proposal, 29 states would see a significant cut in benefits and nearly 20% of households nationally will see a loss of SNAP benefits

The Monterey County Department of Social Services has submitted a comment letter opposing the rule, and Rep. Panetta spearheaded a letter that was joined by 44 of his Democratic colleagues from California to Trump administration in opposition to the rule.

6. Housing and Urban Development (HUD) Fiscal Mapping

At a recent CAO conference, a reference was made to a service offered by HUD that involves it working with the county to identify all potential sources of federal funding for which the county may be eligible. I am in the process of gathering more information about this service and will report back to county staff as I learn more details.

Attachments:

- Federal Bill/Issues Track