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

Maria C. Tripplaar
Tel: 202.777-6987
Fax: 202.661.2299
tripplaarm@ballardspahr.com

MEMORANDUM

TO Legislative Committee
FROM Maria C. Tripplaar
DATE November 12, 2024
RE Federal Legislative Update

This memo provides a Federal Legislative Update on the items appearing on the agenda for the November 15, 2024, Legislative Committee meeting.

1. Federal Government Update

Both the House and Senate returned to Washington, D.C. on November 12, 2024, following the recent election. Donald Trump was elected President for a non-consecutive second term, and Republicans will control the Senate next Congress. As of the time of this writing, there are several races still outstanding for the House, but it is largely presumed that Republicans will retain control of that chamber in the 119th Congress, which means Republicans will have control of the White House and both chambers of Congress, and we will need to keep that in mind as we pursue the County's priorities and policies effecting residents and businesses. As you also know, Rep. Schiff was elected as the next Senator of California, and I have already initiated contact with his office in anticipation of that transition.

Both chambers of Congress are only scheduled for a total of five more legislative weeks before the end of the 118th Congress (which will conclude on January 3, 2025). It remains to be seen how the outcome of the election will alter the dynamics of legislation that was previously considered to be "must pass" and "might pass," which I will address below. Both the House and Senate will engage in leadership elections this week, and there is much focus how will succeed Sen. McConnell as the Leader of Senate Republicans, with several Senators vying for the position. The primary contenders to be Republican Senate Majority Leader are Sens. John Thune of South Dakota, John Cornyn of Texas and Rick Scott of Florida. Many are also watching to see if Speaker Mike Johnson will garner the necessary support from his party to retain his leadership position. I am also closely monitoring announcements of who President-Elect Trump will select to serve in key positions within his

administration and how that may impact the County (such as his announcement that Rep. Elise Stefanik, the no. 3 for House Republicans, to serve as Ambassador to the U.N.).

Notwithstanding the outcome of the election cycle, there is a great deal of work to be done this year, including funding the federal government for FY25, with current stopgap funding set to expire at midnight on December 20, 2024. There are also a few pieces of legislation that are considered “must pass” during the lame duck – the period between the election and the start of the new Congress on January 3, 2025 – such as the annual National Defense Authorization Act (NDAA), and reauthorizing expiring healthcare authorities (including funding for Community Health Centers, National Health Service Corps, Teaching Health Centers with Graduate Medical Education, and Special Diabetes programs).

Moreover, some provisions of the Farm Bill, which was already extended for a year past its original expiration date in 2023, expired on September 30th. The Farm Bill will need to see Congressional action before the end of the calendar year or there will be dramatic consequences with the start of a new crop year in January, namely an automatic reversion of sending crop supports back to policy from the 1938 and 1949 Farm Bills.

Additional legislation that might be considered during the lame duck include the Water Resources Development Act (WRDA), legislation to increase transparency for pharmacy benefit managers (PBMs) to reduce overall health care costs, online safety, data privacy, artificial intelligence (AI), permitting reform, trade-related proposals, debt limit, and cryptocurrency.

2. Budget Update

As discussed at our last Legislative Committee meeting, on September 25, 2024, both the House and Senate passed stopgap funding, called a continuing resolution or CR, to avoid a federal government shutdown. The CR extends FY 2025 funding for all 12 annual spending bills, including the Labor, Health and Human Services, and Education bill, through December 20th. The House Committee on Appropriations has approved all 12 of the annual appropriations bills for FY25, and the full House has passed five of the 12 so far (Defense, Homeland Security, Interior-Environment, Milcon-VA, and State-Foreign Operations). None of the five bills that have passed the Republican-led House so far are expected to pass in the Democrat-controlled Senate, because they all passed the House on a party-line vote. The Senate Committee on Appropriations has approved all but one of the 12 bills (Homeland Security), but has not yet started floor consideration of any of the bills. Now that Congress has returned to Washington, D.C., it is hoped that Congress will begin meaningful work towards completing the regular appropriations process. That said, I am also hearing that Congress may be considering another three-month CR.

3. Federal Budget Requests, including Community Project Funding Requests Summary

The County submitted a total of nine projects for consideration by the federal delegation for Community Project Funding/Congressionally Directed spending – also called earmarks – for FY25. As I presented in previous meetings, only the \$1,105,800 earmark requested by Rep. Lofgren for the Pajaro County Sanitation District (PCSD) Sewer System Improvements project is expected to continue moving forward. At this stage, the PCSD project was successfully included in the Interior-Environment bill that passed the House, and currently awaits Senate consideration. I will continue to monitor all developments closely, including independent Senate consideration or any conference negotiations. Moreover, I am standing ready to receive direction as to federal funding priorities for FY26, in the event the County has the opportunity to apply for earmarks.

4. Federal Advocacy

a. ***FEMA Reimbursement***

On October 18, 2024, County staff from the DEM, WRA, PWFP departments, along with Annette D’Adamo, met with staff from Rep. Panetta’s and Rep. Lofgren’s offices today to brief them on the status of all the FEMA reimbursements related to Pajaro flooding that are pending ineligibility review by FEMA. Rep. Panetta’s and Rep. Lofgren’s staff jointly reached out to FEMA to provide clarification that the projects in the table below are eligible and are not the responsibility of Army Corps.

On October 30, 2024, Reps. Panetta and Lofgren’s staffs met with FEMA, and provided the following update. Critically, staff shared that FEMA clarified that all of the County’s projects have not been lumped together and are all going under review for different reasons. For the two Category B projects, two Category A projects, and Pajaro Mansion (Categories A, B, E) projects, FEMA needs more information and documentation. The Category G Pump project was determined eligible on October 30, 2024. However, the projects pertaining to the levee are complicated. The Congressional staff shared that FEMA indicated that the larger levee repairs at the unique sites and the permanent relocation of the sewer main will be ineligible, which is what the County staff was concerned about. FEMA indicated several reasons for this determination, including that being out of compliance with USACE, a previous need to move the pipeline, and an issue of duplication of benefits. However, FEMA also stated to the Congressional staff that some of the earlier emergency work (the first bypass and possibly the 150 ft repair) should be eligible, once the County provides additional information.

On October 31st, County staff met with CalOES and FEMA regarding some of the reimbursement issues and determinations that were previously communicated in the letter to FEMA dated October 14, 2024. County staff discussed the challenges the County has had with FEMA staff turnover, outstanding needed documentation, inconsistent policy evaluation, burdensome and duplicate Requests For Information (RFIs), and delays from the federal side that have impacted project eligibility.

At that meeting, County staff was able to identify several projects to pull back from ineligibility determination. Unfortunately, FEMA was generally unwilling to change their position on the ineligibility of projects related to the Pajaro Levee in the FEMA PA program; though they did become more aware that USACE has put the County in a predicament.

County staff is working to schedule a site visit at the levee with CalOES, FEMA, and USACE to engage in a deep dive of the jurisdictional areas of responsibilities. We have also communicated with Rep. Panetta’s and Rep. Lofgren’s office and will make every effort to coordinate scheduling with their offices to attend the site visit given their valuable and zealous advocacy on the County’s behalf.

We are also continuing to explore additional potential sources of funding relative to the force sewer main costs, such as the FEMA Hazard Mitigation Grant Program (HMGP) and Building Resilient Infrastructure and Communities (BRIC) programs. We will keep you apprised of any significant developments in those efforts as they become available. Ashley Walker is also exploring additional options, and I will defer to her on those updates as she determines relative applicability to these circumstances.

Project #	Category	Title	Description	Type	Process Step	Status	Likely Inelig. Reason	Estimated Cost
748702	B Emergency Protective Measures	EPM - Sewer Main (PWFP CSD2)	Relocate the sewer force main temporarily to allow USACE repairs	Work Completed	Pending Initial Project Development	Pending Inelig. Review	PL-84-99	\$1,288,140
728230	A Debris Removal	PWFP FG5 Pajaro Mansion	Debris removal at County Library	Work Completed	Pending CRC Project Development	Pending Inelig. Review		\$76,184
729859	E Buildings and Equipment	PWFP FG7 Pajaro Mansion	Permanent repairs at the County Library	Standard	Pending CRC Project Development	Pending Inelig. Review		\$6,882,475

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747876	A	Debris Removal	SPA_Emergency Operations Center/Public Works (JOC) Facilities Curbside ROW Debris Removal	Right of way debris collection in the community of Pajaro	Work Completed	Pending CRC Project Development	Pending Inelig. Review		\$1,602,330
729844	D	Water Control Facilities	PWFP CSD 3 Bypass	Permanent work to repair the sewer force main, likely will need to be an alternative project to re-route the force main	Standard	Pending Initial Project Development	Pending Inelig. Review	PL-84-99	\$3,204,338
728224	A	Debris Removal	WRAM. Debris Removal (Salinas River Diversion Facility)	WRA debris removal	Work Completed	Pending CRC Project Development	Pending Inelig. Review		\$101,416
748700	B	Emergency Protective Measures	EPM - Remediation Pajaro Mansion (PWFP FG6)	County Library remediation	Work Completed	Pending CRC Project Development	Pending Inelig. Review		\$1,189,155
728375	B	Emergency Protective Measures	PWFP Emergency Protective Measures	Storms patrols, road closures and emergency work to reopen roads in the community of Pajaro	Work Completed	Pending Recipient Application Review	Pending Inelig. Review		\$647,627
749435	D	Water Control Facilities	WRAM. Pajaro Levee	Emergency erosion on the Pajaro Levee	Specialized	Pending DDD Completion	Pending Inelig. Review	PL-84-99	\$500,000

728227	B	Emergency Protective Measures	WRAM. Agency Wide Emergency Response	Flood fighting and emergency repairs at the levee	Work Completed	Pending Recipient Application Review	Pending Inelig. Review	PL-84-99	\$1,261,268
729858	G	Parks & Recreational Facilities	PWFP RB 44 Pump Station starter	Repairs to Susan Street Pump Station	Standard	Pending Initial Project Development	Pending Inelig. Review		\$153,593
728377	B	Emergency Protective Measures	PWFP CSD 1 Sewage - Pajaro	Sewage hauling and first temporary bypass to sewer force main	Work Completed	Pending CRC Project Development	Pending Inelig. Review	PL-84-99	\$731,235

5. Legislation

a. ***Water Resources Development Act (WRDA) (S. 4367/H.R. 8812) – Recommend support for Salinas River language in House version***

As is often the case with significant pieces of proposed legislation, the House version of the WRDA bill and the Senate version are not mirror images. Significantly, the House version authorizes a “Project for flood risk management and ecosystem restoration, Salinas River, California,” although this language does not appear in the Senate version.

The Salinas River is a highly modified ecosystem due to the construction and operation of two dams and reservoirs, built in the 1950s and 1960s. With proper channel maintenance, precipitation flows allowed for scouring of the river channel, leaving a clear channel for capacity flow, free of sandbars and excess vegetation. The channelization of the riverbed in the late 1940s and early 1950s brought levees to help control these precipitation flows away from farmland, municipalities, and public infrastructure.

With these modifications to the river flow system, an unintended consequence was realized when vegetation growth increased (and scouring decreased) after reservoir water releases became standard practice for groundwater recharge during the irrigation season (and then mandatory for ecological reasons). Because of this consequence, stakeholders began river channel maintenance to maintain capacity flow and vegetation control, primarily for flood control and mitigation.

The Army Corps of Engineers feasibility study called for in the House WRDA bill would primarily consider measures necessary to provide flood risk reduction along the river

channel and determine if there is federal interest in undertaking a flood control project to protect farmland, infrastructure, and buildings.

6. Federal Bill/Issues Track

Attachment(s):

Federal Bill/Issues Track