

Bighorn-Desert View Water Agency

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A Public Agency

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Planning/Legislative/Engineering Grant & Security Standing Committee Regular Meeting Agenda

Tuesday, February 20, 2018 – 9:15 a.m.

Board Meeting Office

1720 N. Cherokee Trail, Landers, CA 92285

Committee Members: Director Corl-Lorono & Director Burkhardt

The BDVWA Planning / Legislative / Engineering / Grant & Security Committee meeting will be conducted in strict compliance with the Brown Act. Members of the Board not assigned to this Committee who attend may do so only as observers and may not participate in the meeting.

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **Approval of Agenda**

Discussion and Action Items - The Committee and Staff will discuss the following items and provide direction to staff, if so inclined.

The Public is invited to comment on any item on the agenda during discussion of that item.

When giving your public comment, please have your information prepared. If you wish to be identified for the record then please state your name. Due to time constraints, each member of the public will be allotted three-minutes to provide their public comment.

5. Conference Call with Mojave Water Agency's Legal/Legislative and Public Information Committee

Committee to participate via teleconference for an update by the State Advocate of Issues at the State Level, as well as an update by the Federal Advocate of Issues at the Federal Level.

6. Colorado River Funding Area – Pending DAC Involvement Grant Award

7. Update on Prop. 1 Planning Grant for Water System Integration and Interties

8. Update on Fiscal Year 2018/19 Capital Improvement Projects

9. Consent Items - The following is expected to be routine and non-controversial and will be acted on by the Committee members at one time without discussion, unless a member of the Public or a Committee member requests that an item be held for discussion or further action.

- a. Special PLEGS Committee Meeting Report, December 19, 2017

10. Public Comment Period

Any person may address the Committee on any matter within the Agency's jurisdiction on items not appearing on this agenda.

When giving your public comment, please have your information prepared. If you wish to be identified for the record then please state your name. Due to time constraints, each member of the public will be allotted three-minutes to provide their public comment. State Law prohibits the Committee from discussing or taking action on items not included on the agenda.

11. Verbal Reports

- a. Committee Members' Comments/Report
- b. General Manager's Report

12. Adjournment

In accordance with the requirements of California Government Code Section 54954.2, this agenda has been posted in the main lobby of the Bighorn-Desert View Water Agency, 622 S. Jemez Trail, Yucca Valley, CA not less than 72 hours if prior to a Regular meeting, date and time above; or in accordance with California Government Code Section 54956 this agenda has been posted not less than 24 hours if prior to a Special meeting, date and time above.

As a general rule, agenda reports or other written documentation has been prepared or organized with respect to each item of business listed on the agenda.

Copies of these materials and other disclosable public records in connection with an open session agenda item, are also on file with and available for inspection at the Office of the Agency Secretary, 622 S. Jemez Trail, Yucca Valley, California, during regular business hours, 8:00 A.M. to 4:30 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 Bighorn-Desert View Water Agency.

Internet: Once uploaded, agenda materials can also be viewed at www.bdvwa.org.

Public Comments: You may wish to submit your comments in writing to assure that you are able to express yourself adequately.

Per Government Code Section 54954.2, any person with a disability who requires a modification or accommodation, including auxiliary aids or services, in order to participate in the meeting, should contact the Board's Secretary at 760-364-2315 during Agency business hours.

AGENDA ITEM # 5



Legal, Legislative and Public Information Committee

AGENDA

Mojave Water Agency

Board Room

**13846 Conference Center
Drive**

Apple Valley, CA 92307

February 20, 2018

09:30 a.m.

-
- 1. Approve Agenda**
 - 2. Approve Meeting Summary from the Legal, Legislative,
and Public Information Committee Meeting of January 16,
2018**

 Meeting Summary

- 3. Update by State Advocate of Issues at the State Level
(teleconference)**

 State Report

- 4. Update by Federal Advocate of Issues at the Federal Level
(teleconference)**

 Federal Report

 Matrix

- 5. Public Information Update**

6. General Manager's Report

7. Public Participation

8. Comments/Discussion Items for Next or Future Agendas

9. Adjournment

Pursuant to Government Code Section 54954.2(a), any request for a disability-related modification or accommodation, including auxiliary aids or services, that is sought in order to participate in the above-agendized public meeting, should be directed to the Agency's General Manager's office at (760) 946-7008 at least 24 hours prior to said meeting.

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LEGAL, LEGISLATIVE, AND PUBLIC INFORMATION COMMITTEE MEETING

MEETING SUMMARY January 16, 2018

CALL TO ORDER:

Chairperson Beverly Lowry called the meeting to order at 9:30 a.m.

ATTENDANCE:

- ↓ Committee – Chairperson Beverly Lowry, Director Richard Hall, and Director Thurston "Smitty" Smith
- ↓ Absent – None
- ↓ Staff – General Manager Tom McCarthy, Director of Community Outreach and Cultural Relations Yvonne Hester and Public Information Specialist Gloria Golike
- ↓ Consultants – State Advocate Carolyn Jensen, KP Public Affairs; and Federal Advocates Jean Denton, Annie Wake, and Shavenor Winters, Innovative Federal Strategies LLC joined by teleconference
- ↓ Others – Four guests were in the audience and four were online

1. **Approve Agenda**

The agenda was agreed upon as presented.

2. **Approve Meeting Summary from the Legal, Legislative, and Public Information Committee Meeting of November 21, 2017**

The meeting summary was agreed upon as presented.

3. **Update by State Advocate of Issues at the State Level**

Ms. Jensen reviewed the legislative calendar. She mentioned that the bill introduction deadline is set for February 16. She reviewed a few legislative bills of interest; SB 623 - Safe Drinking Water Fund, SB 606 – Making Conservation a Way of Life, and AB 792 – Delta Stewardship Council Membership.

She gave a brief overview of Senate and Assembly legislative priorities and she mentioned some highlights of the 2018-2019 State budget with regard to water. She then addressed questions from the committee members.

4. **Update by Federal Advocate of Issues at the Federal Level**

Ms. Wake spoke briefly about the current budget situation.

Ms. Winters gave a brief report on infrastructure issues.

Ms. Denton gave an update on the procedure for approval of grants and contracts. She then addressed questions from the committee members.

5. **Public Information Update**

Ms. Hester gave a PowerPoint presentation providing an overview of Agency events, the annual survey by California State University, San Bernardino, and upcoming events, including the Innovators High Desert Water Summit and the ABC's of Water.

6. **General Manager's Report**

Mr. McCarthy gave a brief report on some upcoming meetings for staff.

7. **Public Participation**

None.

8. **Comments/Discussion Items for Next or Future Agendas**

None.

9. **Adjournment**

Chairperson Lowry adjourned the meeting at 10:34 a.m.

Submitted by: _____
Gloria Golike
Public Information Specialist

Attachments on-file:

Item No. 5 - Public Information Report - PowerPoint
Sign-in sheet



TO: Legal, Legislative and Public Information Committee
FROM: Ed Manning and Carolyn Jensen
RE: KP Public Affairs Agenda

1. Legislative Calendar

- February 16th: Bill Introduction Deadline

2. Legislative Update

- AB 1876 (Frazier) Delta Stewardship Council Membership
 - Status: Introduced
- AB 2050 (Caballero) Small System Water Authority Act of 2018
- SB 623 (Monning) Safe Drinking Water Fund
 - Status: Assembly Rules Committee
 - Budget Trailer Bill Language Released
- SB 606 (Skinner)/AB 1668 (Friedman) Making Conservation a Way of Life
 - Status: Senate Rules Committee
- SB 919 (Dodd) Stream Gages
- SB 998 (Dodd) Water Shut Offs: Urban and Community Water Systems

2/13/2018

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Comprehensive Government Relations

MEMORANDUM

To: Legal, Legislative, and Public Information Committee

From: Letitia White, Jean Denton, Shavenor Winters

Date: January 31, 2017

Re: January Monthly Legislative Update

Congress Votes to End Shutdown, Sending Spending Bill to President Trump

Congress voted to end the U.S. government shutdown after three days by passing a temporary spending bill, prolonging the fight over a politically charged immigration proposal for at least another three weeks.

The 266-150 House vote sent the measure to President Donald Trump, who signed it the evening of Monday, January 22. The impasse broke after Senate Democrats accepted a deal from Majority Leader Mitch McConnell (R-KY) that would fund the government through Thursday, February 8. In exchange, Sen. McConnell agreed to address Democratic demands that Congress quickly restore protections against deportation to young undocumented immigrants brought to the U.S. as children, which advocates call "Dreamers."

The agreement paved the way to reopen government Tuesday, January 23. The bill, H.R. 195, sets the clock for a showdown between Republicans and Democrats on immigration, one that could potentially end in another standoff over spending. Senator John Thune (R-SD), the chamber's No. 3 Republican, said it's unlikely Congress will be able to pass a final spending bill in three weeks and will probably need a fifth stopgap measure.

"The Republican majority now has 17 days to prevent the dreamers from being deported," Senate Democratic Leader Chuck Schumer (D-NY) said, underscoring the impending deadline. The Senate passed the measure 81-18. The impasse exposed the Democrats' limits on how far they were willing to go with the fight, at the risk of looking beholden to one part of their base -- activists pushing to allow the so-called Dreamers to stay in the U.S. legally.

At the same time, the debate exacerbated bitter differences within the Republican Party that may prevent Congress and President Trump from reaching a long-term deal on immigration, even though President Trump himself has signaled many times that he's open to one.

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What both parties did was effectively punt the issue for three weeks, long enough to get past President Trump's State of the Union address on Tuesday, January 30.

Lawmakers also reached a deal to end the shutdown just as federal agencies were beginning to implement it, and when the true pain of a shutdown would be felt by the public.

House Speaker Paul Ryan (R-WI) underscored the differences as Senate leaders negotiated. He promised House Republicans that they would not be bound by any arrangement reached in the Senate on immigration to reopen the government.

Obama-Era Program

Democrats, and some Republicans, wanted language protecting people in the Deferred Action for Childhood Arrivals, or DACA, program, as part of the spending bill to ensure it became law. Some Republicans have opposed such a move, calling it amnesty. Trump decided in September to end the Obama-era initiative effective in March, although he said Congress should act to protect them. The U.S. counts 690,000 people currently enrolled in DACA.

The White House refused to negotiate over immigration, one of the Democrats' central issues, while the government remained closed. Trump blamed the Democratic leader for what the White House dubbed "the Schumer Shutdown" while Schumer blamed the president for "the Trump Shutdown."

Political Heat

The fact that enough Democrats still voted to end the shutdown suggests they were starting to feel the political heat put on by the White House, which had posed the shutdown as a fight between Americans who would lose out from the shutdown, including the military, and immigrants.

Especially for some Democrats running in 2018 in states won by President Trump, that wouldn't be an appealing choice to put before their voters.

Five of the most vulnerable Democrats voted with McConnell against a filibuster on Friday, and while Democrats continued to attack Trump and Republicans over the weekend for, among other things, not accepting much shorter bills to keep the government open, many were privately negotiating for a way out before dawn Monday, when it would begin to bite.

Sen. McConnell did firm up his offer for an immigration debate slightly on Monday by agreeing to bring a bill to the Senate floor with a fair amendment process. Democrats also won one other concession -- the immigration debate won't be contingent on President Trump's blessing, something that moderate Republicans embraced as a breakthrough.

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Even so, Sen. McConnell has said all along he wants to act before the Monday, March 5 deadline for the end of DACA, which grants protections for the 690,000 young immigrants. And there's still no guarantee something acceptable to Democrats will be embraced by the GOP leadership, by the House, or by President Trump by then, all of whom have been negotiating the issue for months.

GOP Divisions

The standoff also leaves Republicans needing to repair ruptures within their own party. While Republican leaders and the White House were largely united on the shutdown fight itself -- insisting on no negotiations on immigration and training all fire on Schumer for the stalemate -- they remain deeply divided internally on immigration. Senator Lindsey Graham (R-SC) of South Carolina at one point launched a personal attack on White House aide Stephen Miller, President Trump's top adviser on immigration, saying there could be no compromise while the hard-line Miller is involved.

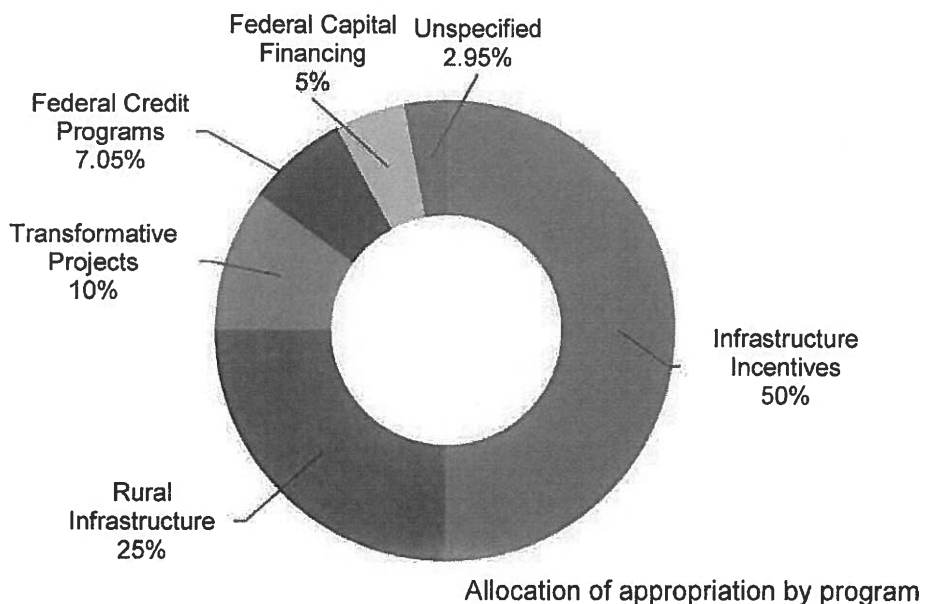
The White House shot back that Graham was the one who's out of step. Graham noted that Democrats still have plenty of leverage given upcoming fights over budget spending caps and other must-pass items.

Fifth Continuing Resolution

There's also the prospect of a fifth continuing resolution to fund the government at fiscal 2017 levels past the Feb. 8 deadline. Despite optimism that they can reach an agreement on spending caps under the Budget Control Act, no lawmakers have said they expect to come up with a final omnibus spending bill by Thursday, February 8.

Leaked Trump Infrastructure Plan

The federal government would provide limited new matching funds for infrastructure projects under by a draft infrastructure plan on leaked Monday, January 22. The plan also proposes new funding for rural infrastructure, expansion of federal credit programs, and enhancements to private activity bonds. The



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White House hasn't confirmed that the draft is official.

The administration has promised to release an infrastructure plan in the coming weeks, with a preview during President Trump's Tuesday, January 30 State of the Union speech.

President Trump has promised to invest \$1 trillion in infrastructure. His fiscal 2018 budget request proposed spending \$200 billion in federal funds over a decade, which would leverage state, local, and private dollars for a total of \$1 trillion. The document doesn't specify a proposed amount or source of funding. Most of the new programs would be subject to appropriation.

It also doesn't address the Highway Trust Fund's long-term insolvency. The fund's outlays for roads and transit exceed the revenue it collects, primarily from the motor fuels tax. It's projected to run out of money in fiscal 2021, after being boosted by a five-year infusion from the general fund in the 2015 FAST Act.

House Transportation and Infrastructure Committee Chairman Bill Shuster (R-PA) said infrastructure will be his top priority for 2018.

New Appropriations

Almost half of the plan's proposed new appropriation would be for an "infrastructure incentives initiative" that would cover as much as 20 percent of the cost of a wide variety of projects, including hydropower, flood control, and contaminated site cleanup.

The non-federal partner -- which could include a public utility or non-profit in addition to a state or local government -- would be responsible for finding the rest of the funding. The program would prioritize projects with a new, non-federal, long-term funding source.

Another 10 percent would be available for grants -- ranging from 30 percent to 80 percent of eligible costs based on the project stage -- for "transformative" projects, including commercial space, telecommunications, energy, and water in addition to standard infrastructure.

Projects would have to include private or nonprofit investors. A quarter of the appropriation would be available for rural infrastructure, including broadband. Projects would have to be in areas with a population of less than 50,000.

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The plan proposes additional appropriations to expand existing credit programs, and a new account to manage federal infrastructure.

Program name	Description
Infrastructure incentives	<ul style="list-style-type: none">• Grant for as much as 20% of a project cost• State and local governments, utilities, nonprofits, public-private partnerships can apply every six months
Transformative projects	<ul style="list-style-type: none">• Competitive funding and technical assistance for "exploratory and ground-breaking" projects. Grants would cover as much as 80% of eligible costs• Could be used for telecom, commercial space, energy, water, transportation
Rural infrastructure	<ul style="list-style-type: none">• 80% formula-based block grant, 20% performance grant• Given to states for rural transportation, broadband, water, waste, power
Interior maintenance fund	New fund that would use revenue from mineral and energy development for infrastructure on federal lands and waters
Federal real property	Executive order to allow federal government to sell assets
Federal capital financing fund	New revolving fund that federal agencies would use to finance large real property purchases

In addition to new programs that would require appropriations, the plan proposes creating an "interior maintenance fund" that would support public lands infrastructure using revenue from drilling and mineral exploration on federal lands and waters.

It also proposes an executive order that would let the federal government dispose of real property, which would "improve the overall allocation of economic resources in infrastructure investment."

Changes to Existing Programs

The plan would provide additional funds for existing lending programs for transportation, railroads, water, and rural utilities, which would remain available until 2028. If the plan's total appropriation was \$200 billion over a decade, it would boost the lending programs' capacity by \$15 billion.

It would expand the potential uses of private activity bonds, which are issued by state and local governments to finance projects conducted with a private partner. It would also lift issuance caps and allow the bonds to be used for advanced refunding, in which issuers take advantage of lower interest rates by refinancing an existing bond issue with a new one. A refunding bond is considered "advance" if it is issued more than 90 days before the redemption of the refunded bond. It's not clear how the change would work in light of the 2017 tax overhaul law, which eliminated advance refunding bonds' tax advantages.

The document lists additional "principles" for infrastructure, which include a variety of suggested modifications to, or expansions of, existing programs. Legislative or regulatory action would likely be required for many of the changes.

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Program name	Description
Federal credit programs	<ul style="list-style-type: none">• Increase capacity for existing lending programs• Expand TIFIA to airports, more types of ports; WIFIA to flood mitigation, navigation, water supply, site cleanup, water systems acquisitions
Private activity bonds	<ul style="list-style-type: none">• Eliminate issuance caps; allow use for advance refunding• Expand to more types of infrastructure projects
Transportation financing	<ul style="list-style-type: none">• Allow states to impose tolls on interstates, commercialize rest areas• Subsidize short-line and passenger rail improvement financing• Expand state infrastructure bank credit assistance
Highways	<ul style="list-style-type: none">• Simplify approval, federal contracting processes• Allow utilities to relocate infrastructure before NEPA review completion
Transit	<ul style="list-style-type: none">• Require value capture (e.g. sales tax, special assessment) from beneficiaries of transit projects
Water	<ul style="list-style-type: none">• Expand eligibility for Clean Water State Revolving Fund to private treatment works• Authorize non-federal construction and operation of inland waterways
Veterans Affairs	Provide VA with flexibility to sell or exchange facilities
Land revitalization	Replicate brownfield grant/revolving loan fund for Superfund projects

Congress Pushes Broadband Access

Congress is making a push to get rural internet access projects funded through President Trump's promised \$1.7 trillion infrastructure plan.

Lawmakers representing rural areas have argued that many of their constituents are losing out on economic and educational resources due to a lack of broadband access. And as the president teases an infrastructure plan, members are stepping up their calls for increased funding.

Leaders of the bipartisan House Rural Broadband Caucus raised their concerns about the possibility that the plan might not include any funding for rural internet connectivity.

"Rural communities must have adequate broadband infrastructure to attract and retain businesses and human resources, close the homework gap for students and teachers, open innovative and convenient pathways to telemedicine for seniors and providers, and help farmers increase efficiencies in their barns and on their land," the House members wrote in a letter.

The increasing importance of internet access has turned it into an infrastructure issue that many see as just as vital as roads and bridges.

In a 2016 progress report, the Federal Communications Commission (FCC) estimated that 34 million people in the U.S., including 23 million rural Americans, still lack access to broadband internet, which the agency defines as having download speeds of 25 megabits per second.

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President Trump has voiced support for addressing the issue in his infrastructure package. He said he will discuss the \$1.7 trillion plan in his State of the Union speech next week, and it could be released as early as this month.

But details are still light. A leaked draft outline of the infrastructure plan, discussed above, showed that broadband access projects were included as part of the 25 percent of dollars set aside for rural infrastructure spending.

Lawmakers are still looking for assurances that internet access will receive direct funding from the White House plan.

Earlier this month, the bipartisan Senate Broadband Caucus, led by Sen. Shelley Moore Capito (R-WV), called on the president to set aside deployment funds.

It would cost \$40 billion to expand internet access to cover 98 percent of Americans, a separate FCC report estimated last year. To deliver broadband to 100 percent of the U.S. population could cost another \$40 billion on top of that, according to the report.

Democrats have already seized on that first \$40 billion as a benchmark.

They argue that the problem can only be tackled with a large appropriation. Last year, House Democrats floated an infrastructure proposal that would have delivered \$40 billion for broadband deployment.

While Republicans seem to agree on the need to expand access, the GOP has not yet revealed a sum they're willing to shell out for network expansion projects, and it's unclear whether the two sides will be able to agree on a figure.

'Smart Wall' Could Be Key to Immigration Compromise

A proposed technological solution could help resolve the nation's battle over immigration and border security -- although it may also pit construction contractors against the high-tech sector.

At the heart of the debate is one of President Donald Trump's most controversial campaign promises: a wall along the U.S. border with Mexico. The President and his supporters in Congress insist that any budget deal that includes legal protections for the beneficiaries of the Deferred Action for Childhood Arrivals (DACA) program must also include funding for the wall, along with other border security measures. But the president's plan to build a physical wall along the U.S.-Mexico border at taxpayer expense has proven a nonstarter for Democrats.

A solution to the current impasse may rest with a plan to instead build a "smart" wall that relies on drones and sensors, rather than concrete, to reduce drug smuggling, human trafficking, and illegal immigration.

A 'Smart' Wall?

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A smart wall would consist of interlocking optical, radar, seismic, acoustic, and aerial surveillance systems designed to alert mobile border patrol units to intercept unauthorized border crossings. These technologies could be deployed in conjunction with physical barriers in high-traffic zones, or used independently in regions where rough terrain makes wall construction especially challenging and costly.

One proposal, known as the Secure Miles with All Resources and Technology Act, or SMART, was introduced in July by Rep. Will Hurd (R-TX). The SMART Act would authorize \$550 million from fiscal 2018 through 2022 to assist the Department of Homeland Security in deploying a range of border surveillance technologies, including: Vehicle and Dismount Exploitation Radars (VADER).

Three-dimensional seismic acoustic detection and ranging tunneling detection technology.

Man-portable and mobile vehicle-mounted unmanned aerial vehicles.
Hurd's bill would augment the \$197 million requested by U.S. Customs and Border Protection for surveillance technologies in fiscal 2018.

The SMART Act would also authorize Homeland Security to "deploy the most practical and effective technology available along the United States border for achieving situational awareness and operational control of the border," giving the agency greater flexibility to assess risks and prioritize resources toward the areas of greatest concern.

Proponents claim that a smart wall is preferable, in terms of both cost and effectiveness, to President Trump's plan to build a physical wall. Hurd, relying on an estimate by Anduril Industries, says his plan will cost \$500,000 per mile of border, or about \$1 billion, a fraction of the \$12 billion to \$40 billion President Trump's wall is expected to cost.

Cost considerations aside, some experts warn that much of the \$1.6 billion the Trump administration requested for new wall construction in fiscal 2018 could prove counterproductive if it comes at the expense of technology upgrades and the hiring of new customs agents.

Political Considerations

Although funding for the wall is not the only concession Republicans may seek in exchange for DACA legal protections, it's certainly the most intractable issue in the current negotiations. Both parties have staked their credibility on the wall issue. For President Trump, building the wall represents a top campaign promise to his

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conservative base, while Democrats appear determined to deny the president the political victory the wall represents.

Nevertheless, a solution to the immigration question may be feasible if both sides are able to compromise on replacing some funding for wall construction with increased investment in border surveillance technologies.

Such a deal would offer both parties the chance to claim victory and climb down from the zero-sum positions they've staked out. President Trump and his Republican allies could take credit for securing some, if not all, funding for wall and strengthening border security measures.

Democrats could claim they defeated President Trump's multibillion-dollar wall proposal and resolved the legal jeopardy faced by so-called "Dreamers."

Although this approach may not please hard-liners on both sides when the latest continuing resolution expires, it may prove acceptable enough with moderates to pass with a majority of House Republicans and swing enough Democratic senators to reach 60 votes.

On Thursday, January 25 the White House presented Congress with such a compromise. The immigration reform plan that would satisfy a key Democratic demand - offering a path to citizenship for 1.8 million undocumented immigrants brought to the U.S. as children-in exchange for dramatic restrictions on immigration going forward and a \$25 billion fund for border security. The framework also eliminates the visa lottery and curbs U.S. migration by extended families, a fundamental change to existing immigration policy. New citizens would be able to sponsor their immediate families - spouses and children - to legally enter the country, but other relatives would be excluded.

Supreme Court Speeds Up Timeline on DACA Case

The U.S. Supreme Court is speeding up the timeline for the lawsuit over the Trump administration's termination of the Deferred Action for Childhood Arrivals program.

The individuals, organizations, and government bodies suing the administration now have until Feb. 2 to file their briefs opposing Supreme Court review. They originally had until Feb. 20.

The expedited schedule allows the court to decide as early as Feb. 16 whether it will hear the case.

The Justice Department Thursday, January 18 asked the justices to determine whether the administration had the authority to end DACA. The next day, the DOJ asked for expedited consideration of the case because of its "imperative public importance" and "urgent need for a prompt resolution."

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The administration originally proposed Jan. 31 as the deadline for a response to its Supreme Court petition, but it agreed to Feb. 2 as long as the later date would still allow time for the justices to consider the case during their Feb. 16 conference.

Justices Already Involved

The justices already have waded into the lawsuit, issuing an order preventing the lower courts from requiring the Department of Homeland Security to turn over documents related to the decision to end DACA.

The DOJ's request goes beyond the documents, asking the court to decide the merits of the case before a federal district court judge has had the opportunity to do so. Questions include whether it was reasonable for the Homeland Security and Justice departments to believe DACA would be struck down by the courts, as well as whether DACA recipients' due process and equal protection rights were violated when the program was terminated.

In a separate lawsuit over driver's licenses for DACA recipients, the justices asked the Trump administration for its views on the matter before determining whether to take the case. The administration never filed a brief, and the court never heard arguments, many of which related to the legality of DACA.

The case essentially could become moot if Congress is able to reach an agreement on the legal status for the young, undocumented immigrants covered by the DACA program. DACA was terminated in September but a federal judge in California 9 ordered that the DHS resume processing DACA renewals. In addition to petitioning the Supreme Court, the DOJ also has appealed that ruling to the U.S. Court of Appeals for the Ninth Circuit. The DOJ additionally has appealed to the Second Circuit in a separate case also challenging DACA's termination.

Patchwork Water Pollution Rule Takes Effect After Supreme Court Ruling

Most of the country will be subject to an Obama-era regulation defining the reach of the nation's water pollution law, but the regulation still faces a bevy of legal challenges across the country in a process that promises to be "chaos."

The U.S. Supreme Court unanimously held Jan. 22 that litigation over the 2015 Clean Water Rule will be heard in federal district courts across the nation. That means that the U.S. Court of Appeals for the Sixth Circuit's nationwide hold on the regulation was struck down. However, a 13-state stay issued by the U.S. District Court for the District of North Dakota could be revived, leading to a patchwork of regulations across the country. The Trump administration, which is in the process of replacing the Clean Water Rule, is unlikely to enforce the regulation. However, it has not yet completed plans to push back to 2020 implementation of the rule that defines the waters and wetlands protected by the Clean Water Act and subject to regulatory regimes, including federal permits, oil spill prevention requirements, and state water quality certifications.

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However, the Environmental Protection Agency and the U.S. Army Corps of Engineers—which co-wrote the rule also known as Waters of the U.S.—expected this decision and put a plan in place to level the playing field and ensure certainty for states and the regulated community.

Additional Challenges Coming

Meanwhile, some industry groups are gearing up to revive the lawsuits in federal district courts that were either stayed or withdrawn and press for more delays in implementing the rule. Others are debating whether to hold off on lawsuits until the Trump administration completes its rewrite, which is not due until June 2019.

High Court Sides With 30 States

The Supreme Court supported the position taken by 30 states and many industry groups that federal district courts are better suited to reviewing such challenges, which have an impact on local waterways, than an appellate court.

Issue Remains Relevant

The issue of which court should review the water rule remains relevant, even as the Obama-era water jurisdiction rule is in the process of being rescinded and replaced by the Trump administration. The Supreme Court's decision will determine where the inevitable legal challenges to an expected replacement regulation will be heard.

Challenges will resume in district courts across the country, including the federal district court in Bismarck, N.D., which has blocked the rule from taking effect in North Dakota, Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, Nevada, New Mexico, South Dakota, and Wyoming.

While having a single appellate court hear the challenge would have been more efficient, that wasn't Congress's only consideration when it limited federal appellate courts to hearing reviews of specific EPA actions, Sotomayor wrote.

“Had Congress wanted to prioritize efficiency, it could have authorized direct circuit court review of all nationally applicable regulations, as it did under the Clean Air Act,” Sotomayor wrote.

The court didn't buy the government's argument that it would be more efficient for a federal appeals court to hear litigation over the Obama-era Clean Water Rule or any subsequent rewrite, dismissing the government's broad reading of the Clean Water Act.

Army Corps Nominee Clears Hurdle Toward Confirmation

On Thursday, January 25 the Senate confirmed by a vote of 89-1 the White House's pick to lead the Army Corps of Engineers, R.D. James.

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R.D. James, the Trump administration's nominee to be assistant secretary of the Army for Civil Works, was approved by the Senate Environment and Public works committee on an unanimous voice vote. The Army Corps is responsible for issuing Clean Water Act dredge-and-fill permits for activities that can affect wetlands and other water bodies and also oversees many types of infrastructure projects such as ports, locks, and dams. It is also the lead agency in charge of flood control and navigation.

James has been a decades-long member of the Army Corps' Mississippi River Commission. In addition to having jurisdiction over the federal government's flood control projects, James would also have a major role in shaping the administration's waters of the U.S. Rule, which aims to define which bodies of water fall under federal pollution control statutes. His predecessor in the Obama administration was Jo-Ellen Darcy.

Lawmakers Want Earmarks in Spending, Infrastructure Bills

Lawmakers in both parties are lobbying House Speaker Paul Ryan (R-WI) to allow Congress to resume earmarking project funding, beginning with the annual spending bills that fund the government and this year's infrastructure development plan.

Senior Republicans and Democrats said the earmark moratorium imposed by former House Speaker John Boehner (R-OH) wrongly ceded lawmakers' control of as much as \$15 billion in spending to the executive branch and hamstrung their ability to address needs in their districts. Lawmakers said they want Speaker Ryan to initiate a change in House rules to get rid of the ban, and some said they intend to force a vote on the matter if the leader doesn't act soon.

The calls to reinstate projects are coming primarily from members of the House Appropriations Committee and Transportation and Infrastructure Committee, who want to begin inserting them into the fiscal year 2019 spending bills and infrastructure legislation as soon as this spring.

Rules Chairman Pete Sessions (R-TX) said he doesn't plan to go back to the earmark excesses that led Boehner to impose the ban. But Sessions acknowledged lawmakers' "intense interest" in taking back their authority over spending. Among others, he has called the Texas Department of Transportation to testify Thursday, January 18 on how Congress can better help address states' needs.

Hoyer Offers Support

House Minority Whip Steny Hoyer (D-MD) said the move would be controversial but offered Democrats' support. He said Democrats won't make it a "gotcha issue."

Lawmakers said Ryan so far has avoided taking a firm stance on the matter. He said that he isn't inclined to restore earmarks but also didn't rule them out.

The change Boehner forced was to the rules of the House Republican Conference, lawmakers said. No changes were actually made to the official House rules and they still

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reflect earmark changes Democrats imposed when they controlled the chamber, Hoyer said.

Bridge to Bipartisanship

Rep. Young, a former chairman and current member of the Transportation Committee who is well known for sponsoring the controversial “Bridge to Nowhere” project in Alaska, said he had the votes to change the conference rules over a year ago when Ryan decided revisiting earmarks wasn't consistent with President Donald Trump's stated goal to “drain the swamp.” However, President Trump himself recently indicated support for projects and said they could build bipartisanship.

Rep. Young said Congress “neutered” itself when it went along with Boehner's plan and now should ignore warnings from the Club for Growth that the move could cost the GOP its majority this fall. He and current Transportation and Infrastructure Chairman Bill Shuster (R-PA) also refuted charges that the projects will run up the deficit.

While Young and Shuster said they want to direct spending for all infrastructure projects, Rep. Tom Rooney (R-FL) said his plan focuses on funds the Army Corps of Engineers controls. Rep. John Culberson (R-TX), an Appropriations “cardinal,” also called for lawmakers to direct money for flood control projects.

Rooney also said he believed he had the votes to force the change last year but agreed to stand down. Now, he said, he's still being told it's not “a good time” to push the matter because Congress is struggling to even pass a continuing resolution to fund the government.

Surface Transportation Threats and Challenges – Senate Hearing

The Senate Commerce, Science, and Transportation Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety and Security held a hearing to examine current and emerging threats to surface transportation security, including efforts to enhance surface transportation security for passenger and freight railways, mass transit, highways, and ports. Subcommittee Chairwoman Deb Fischer (R-Nebraska) focused her remarks on the need to improve security for America's surface transportation systems, highlighting recent tragedies and attacks that have occurred on railways and in subway stations. Chairwoman Fischer addressed the need to improve America's surface transportation security, since the U.S. Government's focus has primarily stayed on aviation security.

David Pekoske, Administrator of the Transportation Security Administration (TSA), was among the panel of witnesses. In his statement, Mr. Pekoske addressed the need to revive security measures undertaken for America's surface transportation systems. The majority of TSA's focus and budget revolves around aviation security, but Mr. Pekoske stated surface transportation has been primarily a partnership among TSA and surface transportation owners and operators because the owners and operators are primarily responsible for their own security operations. The interconnected, expansive scope of

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the surface transportation system creates a unique security challenge. In his closing remarks, Mr. Pekoske stated "I believe a reinvigorated strategy is an essential foundation for success in our mission, and I have engaged my executive staff to re-examine and re-envision TSA's strategy and to place a much greater emphasis on surface transportation.

What to Watch Next Week: State of Union, 'Dreamers,' Defense

President Donald Trump travels to Capitol Hill next week to deliver a State of the Union address to a Congress deeply divided over immigration policy and spending priorities.

Republicans want to increase defense spending caps under the Budget Control Act and Democrats are insisting on matching boosts for domestic programs. They're working a short week, with Republicans and Senate Democrats departing Wednesday for annual policy retreats.

President Trump said he plans to announce during his State of the Union address a \$1.7 trillion infrastructure investment. The devil will be in the details: whether, and how much, federal money is involved.

Immigration

Watch for a preview of President Trump's latest stance on immigration Monday with the release of a White House legislative framework. The president will support a path to citizenship for as many as 1.8 million undocumented immigrants brought into the U.S. as children, doubling the number of people covered by current protections from deportation.

EPA Oversight

Environmental Protection Agency Administrator Scott Pruitt is scheduled to testify before the Senate Environment and Public Works Committee Tuesday. Look for Democrats to grill him about his directive barring scientists who receive EPA funding from serving on its advisory boards. The agency has removed six university researchers from its advisory board and replaced them with advisers more friendly to industry. The Union of Concerned Scientists, a nonprofit advocacy group, filed a lawsuit this week calling the directive "an attempt to delegitimize science."

Monument Split

The House Natural Resources Federal Lands Subcommittee plans to hold a Tuesday, January 30, hearing to discuss H.R. 4532, which would establish Bears Ears as the first tribally managed national monument. President Trump trimmed the size of the Utah monument in December and divided it into two units renamed the Shash Jáa National Monument and Indian Creek National Monument. Lawmakers will consider testimony by Rep. John Curtis (R-UT) and Utah Republican Gov. Gary Herbert, as well as local tribal members.

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A coalition of tribes and environmental groups sued the Trump administration in December, calling its decision to shrink and split Bears Ears unconstitutional and unprecedented. The administration is urging the U.S. District Court for the District of Columbia, where the lawsuits were filed, to send them to Utah's district court. The local court or jury could be more sympathetic to President Trump's decision.

Federal Legislation of Significance

Bill Number	Sponsor	Title and/or Summary	Summary/Status
H.R. 1370	Rep. Michael McCaul (R-TX)	Vehicle for the Short-Term Continuing Resolution	The continuing resolution (CR) to fund the government through Friday, January 19, passed the House 231-188 and the Senate 66-32 on Thursday, December 21. The CR maintains current levels of spending through Jan. 19 and provide \$4.5 billion in emergency funding for missile defense work as well as other Pentagon expenses
H.R. 4667	Rep. Rodney Frelinghuysen (R-NJ)	Making further supplemental appropriations	President Trump signed the legislation into law on Friday, December 22, 2017. Making further supplemental appropriations for the fiscal year ending September 30, 2018, for disaster assistance for Hurricanes Harvey, Irma, and Maria, and calendar year 2017 wildfires, and for other purposes. The House passed the legislation by a vote of 251 to 169. The Senate did not take up the legislation and will revisit the issue in January 2018. The Senate read the second time and the legislation was placed on Senate Legislative Calendar under General Orders on January 4, 2018.
S.1	Sen. Mike Enzi	Tax Cuts and Jobs Act	This bill provides for the reconciliation pursuant to title II of the concurrent resolution on the budget for fiscal year 2018. Tax rates would be reduced, dozens of breaks would be eliminated, and the individual mandate from the Affordable Care Act would be eliminated. The corporate income tax rate would be set at 20 percent.
	Sen. Thad Cochran (R-MS)	Fiscal 2018 Appropriations Act	S.1 was introduced by the Senate Budget Committee on Tuesday, November 28. On November 21, 2017, the Senate Appropriations Committee released funding bills for Defense, Homeland Security, Financial Services and the Interior for fiscal year 2018. We expect the Senate to go straight to conference on these bills. The remaining eight FY18 bills were approved by the committee prior to November.
H.R.1	Rep. Kevin Brady (R-TX)	An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018.	This bill amends the Internal Revenue Code to reduce tax rates and modify policies, credits, and deductions for individuals and businesses. Tax rates would be reduced, dozens of breaks would be eliminated, and the individual mandate from the Affordable Care Act would be eliminated. The corporate income tax rate would be set at 20 percent. H.R.1 was introduced on Thursday, November 2 buy the Committee on Ways and Means. The House voted 227-205 and passed the bill on Thursday, November 16. On December 2, the Senate passed an amendment by the Yeas and Nays: 227-207. On December 19, the conference report was agreed in the House with a vote of 227-203.

H. Con. Res. 71	Rep. Diane Black (R-TN)	Establishing the congressional budget for the United States Government for fiscal year 2018 and setting forth the appropriate budgetary levels for fiscal years 2019 through 2027	<p>The House agreed to the Senate amendment on December 20 with a vote of 224-201. The legislation became Public Law No: 115-97 on December 22, 2017.</p> <p>Legislation that would change the tax code and increase the deficit by as much as \$1.5 trillion over a decade could be passed with simple majorities in both chambers under the Senate amendment to H. Con. Res. 71.</p> <p>The House agreed to the Senate Amendment and voted 216-212 to resolve. The proposed fiscal 2018 budget resolution would direct the tax-writing panels -- House Ways and Means and Senate Finance -- to produce reconciliation legislation by Monday, November 13, 2017.</p> <p>The plan calls for spending \$3.13 trillion in fiscal 2018, while bringing in \$2.49 trillion in revenue, for a deficit of \$641 billion. Those figures don't include "off-budget" items such as Social Security, which would bring total spending to \$3.99 billion in fiscal 2018. It would seek about \$5.1 trillion in spending reductions over the next decade and \$1.6 trillion in tax cuts.</p> <p>The House adopted its version of H. Con. Res. 71 by a vote of 219-206 on Thursday, October 5. The Senate adopted an amended version by a vote of 51-49 on Thursday, October 19. And, the House passed the Senate amended bill on Thursday, October 26 by a vote of 216-212. It now goes to the White House for the President's expected signature.</p>
H.R. 2266	Rep. John Conyers	Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2017	<p>Hurricane and wildfire relief efforts would receive an additional tranche of emergency supplemental funding under a House amendment to the Senate amendment to H.R. 2266.</p> <p>The \$36.5 billion aid package would: Appropriate \$18.7 billion for the Federal Emergency Management Agency's (FEMA) Disaster Relief Fund (DRF). As much as \$4.9 billion could be transferred to FEMA's Community Disaster Loan (CDL) program to help local governments and U.S. territories provide essential services. Cancel \$16 billion in loans to the National Flood Insurance Program (NFIP), which reached its borrowing limit after hurricanes Harvey and Irma. And allow as much as \$1.27 billion in previously appropriated funding to be transferred for emergency nutritional assistance in Puerto Rico.</p>

H.R. 3711	Reps. Lamar Smith (R-TX)/Ken Calvert (R-CA) /Bob Goodlatte (R-VA)	The Legal Workforce Act	<p>The Senate agreed to the House amendment to the Senate amendment to H.R. 2266 by 82-17. On October 26, 2017, the bill became Public Law No: 115-72.</p> <p>A bill that would require all U.S. employers to use the E-Verify electronic employment verification system. The requirement would be phased over a two-year period, starting with the largest employers. The agriculture industry would have an additional six months (or 30 months total) to come into compliance.</p> <p>H.R. 3711 was referred to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, and Education and the Workforce on Friday, September 8th. On Wednesday, September 27th, H.R.3711 was referred to Judiciary Subcommittee on Immigration and Border Security. Judiciary Committee Consideration and Mark-up Session was held on Wednesday, October 25th. H.R. 3711 was ordered and reported (amended) by the yeas and nays: 20-10 on October 25, 2017. \$15.25 billion dollar bill for disaster aid following the destruction caused by Hurricane Harvey and anticipated by Hurricane Irma. This bill will also raise the debt limit and includes a continuing resolution funding the government until December 8th.</p>
H.R. 601	Rep. Nita Lowey (D-NY)	Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017	<p>H.R. 601 was passed in the Senate on Thursday, September 7 will additional Hurricane funding and the deficit reduction until December provisions. The House passed the bill on Friday, September 8, 2017, and was signed by the President on the same day (Public Law 115-64).</p>
H.R. 3354	Rep. Ken Calvert (R-CA)	Make America Secure and Prosperous Appropriations Act, 2018	<p>An omnibus package including the Interior; Homeland Security; Financial Services; Commerce, Science, and Justice; Transportation, Housing and Urban Development; Agriculture; Labour and Health and Human Services, and Education; and State and Foreign Operations Appropriations Acts, fiscal year 2018. The House-passed version of H.R. 3354 includes all 12 appropriations bills, including four that were previously passed in H.R. 3219.</p> <p>Highlighted bills in this package are below.</p> <p>H.R. 3219 was introduced in the House Rules Committee on Wednesday, August 16. was considered and passed by a vote of 211 to 198 on the House Floor on September 14, 2017. The Continuing Resolution, H.R.195, will run until February 8, 2018.</p>

H.R. 3219	Rep. Kay Granger (R-TX)	Make America Secure Appropriations Act, 2018	<p>A small omnibus package including the Defense, Energy and Water, Military Construction and Veterans Affairs, and Related Agencies, Legislative Branch, and Border Barrier funds from the Homeland Security Bill Appropriations Acts, fiscal year 2018.</p> <p>Highlighted bills in this package are below.</p> <p>H.R. 3219 was introduced in the House Rules Committee on Monday, June 24. It was passed on the House Floor by a vote of 235-192.</p> <p>This legislation provides \$88.8 billion in discretionary funding, \$6 billion above the fiscal year 2017 level. Within this total, funding for the Department of Veterans Affairs was increased by \$4 billion over the fiscal year 2017 level, and increases access to services for veterans and regulatory oversight within the department. Also within the total, Military construction was increased by \$2.1 billion over the fiscal year 2017 level.</p> <p>This bill was passed out of the Appropriations Committee on June 15th. The Senate's corresponding legislation was reported out of the Senate Appropriations Committee in July.</p> <p>This bill was included in H.R. 3219 and passed on the House Floor by a vote of 235-192.</p> <p>The House Appropriations Committee marked up the FY18 Energy and Water Bill in full committee on July 17th.</p> <p>Within the bill, the Bureau of Reclamation funding is reduced from the FY17 level but well above what the Administration had requested for FY18. Also, the bill would authorize the EPA and Army to withdraw from the Waters of the United States rule.</p> <p>This bill was included in H.R. 3219 and passed on the House Floor by a vote of 235-192.</p> <p>The House Appropriations Committee today approved the fiscal year 2018 Transportation, Housing and Urban Development funding bill on July 17, 2017.</p> <p>In total, the bill reflects an allocation of \$56.5 billion in discretionary spending – \$1.1 billion below fiscal year 2017 and \$8.6 billion above the request.</p>
	Rep. Charlie Dent (R-PA)	Fiscal 2018 Military Construction and Veterans Affairs, and Related Agencies Appropriations Act	
	Rep. Mike Simpson (R-ID)	Fiscal 2018 Energy and Water Appropriations Act	
	Rep. Mario Diaz-Balart (R-FL)	Fiscal 2018 Transportation, Housing and Urban Development, and Related Agencies Appropriations Act	

			<p>Within the bill, Community Development Block Grants are funded at \$2.9 billion, \$100 million below fiscal year 2017 level.</p> <p>The Senate Appropriations Committee approved their FY18 Energy and Water Bill on July 20th in full committee markup.</p> <p>Within the bill the Committee recommended funding the Bureau of Reclamation at \$1,287,725,000, which is \$190,332,000 above the President's FY18 budget request. Similar to the House mark, the Senate provided \$34,406,000 for Title XVI and \$24,000,000 for WaterSMART grants. Also, an additional \$98,000,000 for drought resiliency programs authorized in the Water Infrastructure Improvements Act (WIIN Act).</p>
	Sen. Lamar Alexander (R-TN)	Fiscal 2018 Energy and Water Appropriations Act	<p>The Senate Appropriations Committee marked up the FY18 Transportation, Housing and Urban Development, and Related Agencies Bill in subcommittee on July 25th. At this time the bill and report text has not been released.</p> <p>The FY2018 appropriations bill providing \$60.058 billion in discretionary spending for the U.S. Department of Transportation, U.S. Department of Housing and Urban Development, and related agencies. Within the bill, TIGER grants were funded at \$550 million, \$50 million above the FY2017 enacted level; and the Community Development Block Grant (CDBG) formula program is funded at \$3 billion.</p>
H.R. 23	Rep. David Valadao (R-CA)	Gaining Responsibility on Water Act of 2017	<p>Among other things the legislation would require regulators to comply with the Bay-Delta Accord and make changes to the state's Central Valley and State Water projects and streamline permitting processes. The bill included provisions from multiple other bills previously passed by the House that sought to increase the flow of water to areas of California that have experienced drought over the past five years. The measure was referred to the House Committee on Natural Resources and the Committee on Agriculture.</p> <p>By a vote of 230-190, the House passed H.R. 23, as amended, on July 12, 2017. H.R. 23 was received in Senate, read twice and referred to the Committee on Energy and Natural Resources on July 18, 2017.</p>
	Rep. Bill Shuster (R-PA) /Sens. Jim Inhofe (R-WY) and Kamala Harris (D-CA)	Infrastructure Package	<p>Throughout the month, the House Transportation and Infrastructure Committee have held a series of hearings entitled, "Building a 21st Century Infrastructure for America," which have focused on various aspects of infrastructure, from passenger rail service to reauthoring the Federal Aviation Authorization (FAA).</p> <p>On June 7, President Trump outlined that he intends to leverage \$200 billion in direct federal funding over ten years to help stimulate \$1 trillion in investment in</p>

H.R. 1663	Rep. Grace Napolitano (D-CA) / Rep. Rob Wittman (R-VA)	Water Resources Research Amendments Act	<p>infrastructure. This federal funding will consist of 1) grants and loans that seek to privatize the country's air traffic control system, 2) grants to repair bridges, road, 3) enhanced loan program with the Transportation Infrastructure Finance and Innovation Act, and 4) incentive programs with grants to states and municipalities.</p> <p>One part of the president's plan has already been put into legislation. House Transportation and Infrastructure Committee Chairman Bill Shuster and Aviation Subcommittee Chairman Frank LoBiondo (R-NJ) introduced the FAA's reauthorization legislation, H.R. 4441, the 21st Century Aviation Innovation, Reform, and Reauthorization (AIRR) Act, which will transfer air traffic control operations from the FAA to a private, nonprofit, 13-member board. While Representative Shuster said that the bill does not "mirror" President Trump's infrastructure outline, he said that he considered many aspects of the proposal. Shuster has also voiced his hope that the committee will markup the legislation on Tuesday, June 27 and move to the floor in mid-July.</p> <p>Currently, it is unclear who will champion the bill in the other chamber. Senate Commerce, Science and Transportation Committee Chairman John Thune (R-SD) announced that the Senate's FAA reauthorization legislation will not include privatizing the air traffic control system. That said, Representative Sam Graves (R-MO), who last year voted against the 2016 FAA reauthorization bill, helped develop the legislation with Chairman Shuster.</p> <p>This legislation would extend a Federal-State partnership aimed at addressing state and regional water problems, promoting distribution and application of research results, and providing training and practical experience for water-related scientists and engineers. H.R. 1663 would authorize \$9,000,000 annually over five years for grants to water resources research institutes and require two-to-one matching with non-federal funds. It would also promote exploration of new ideas, expand research to reduce energy consumption, and bolster reporting and accountability requirements.</p> <p>The bill has been introduced in the House Committee on Natural Resources and referred to the Subcommittee on Water, Power and Oceans on March 27, 2017.</p>
H.R. 497/ S.357	Rep. Paul Cook (R-CA)/ Sen. Dianne Feinstein (D-CA)	Santa Ana River Wash Plan Land Exchange Act	<p>This bill directs the Department of the Interior: (1) to quitclaim to the San Bernardino Valley Water Conservation District in California approximately 327 acres of identified federal land administered by the Bureau of Land Management, and (2) in exchange for such land, to accept from the Conservation District a conveyance of approximately 310 acres of its land.</p>

			<p>On April 27th HR 497 passed through the House Natural Resources Committee by unanimous consent, and was scheduled for the House Floor Consideration on June 2nd.</p> <p>This bill was passed by the House on June 27th by a vote of 424-0. The bill was referred to the Senate Committee on Energy and Natural Resources on June 28th and no further action has been taken.</p> <p>The Senate Environment and Public Works Committee held a hearing on S. 357 on July 26, 2017. No further activity is anticipated until the Fall.</p> <p>This bill would designate important wilderness in the California desert and protect lands for recreation, wildlife and tourism. Aspects of the bill include:</p> <ul style="list-style-type: none"> • Mandate study and protection of Native American cultural trails along the Colorado River. • Designate 230,000 acres of additional wilderness area between the Avawatz Mountains near Death Valley to Imperial County's Milpitas Wash. • Add 43,000 acres to Death Valley and Joshua Tree national parks. • Create a 75,000-plus acre special management area at Imperial County's Vinagre Wash. • Designate Inyo County's Alabama Hills as a National Scenic Area. • Prohibit new mining claims on 10,000 acres in Imperial County considered sacred by the Quechan Tribe. <p>Additionally, the bill protects 140,000 acres of existing off-road vehicle riding areas from mining, energy development, military base expansion or other decisions that would close them to vehicle use.</p> <p>The Senate Environment and Public Works Committee held a hearing on S.32 on July 26, 2017. No further activity is anticipated until the Fall.</p>
S. 32	Sen. Dianne Feinstein (D-CA)	California Desert Protection and Recreation Act	<p>This bill would amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds.</p> <p>This bill has been introduced to the House Transportation and Infrastructure subcommittee on Water resources and Environment on May 19, 2017.</p> <p>This bill would allow water project sponsors the opportunity to use an expedited permitting process for new or expanded surface non-federal storage facilities through the Bureau of Reclamation, which would be the lead and central agency coordinating the review process.</p>
H.R. 2510	Rep. Peter DeFazio (D-OR)	Water Quality Protection and Job Creation Act of 2017	
H.R. 1654	Rep. Tom McClintock (R-CA)	Water Supply Permitting Coordination Act	

H.R. 195	Rep. Steve Russell (R-OK)	Continuing resolution through Feb. 8 & CHIP reauthorization	<p>The House Natural Resources Committee approved the bill by a vote of 24-16 on April 27. The House Rules Committee on June 20th dictated final amendments for passage on the House Floor; this bill passed the House on June 22 by a vote of 233-180. H.R. 1654 was referred to the Senate Committee on Energy and Natural Resources on June 26 and not further action has been taken.</p> <p>The measure would extend funding for most federal agencies at the reduced fiscal 2017 spending levels initially provided by Public Law 115-56 to keep spending in line with the fiscal 2018 caps. It would be the fourth continuing resolution passed since the fiscal year began on Oct. 1.</p> <p>The legislation also would extend most anomalies and program extensions from the previous continuing resolutions, such as the National Flood Insurance Program.</p> <p>The measure would allow emergency missile defense funding provided under the last CR to be used for intelligence activities that haven't been specifically authorized by Congress.</p> <p>It also includes other anomalies that would allow funding for summer food programs for kids, NASA space exploration, the Energy Department inspector general, and small-business loans, to be apportioned at the rate needed to maintain operations and meet scheduling and other requirements. Additionally, the Housing and Urban Development Department could adjust funding for public housing agencies to administer Section 8 Housing Choice Vouchers in areas where the president declared a disaster in 2017 or 2018.</p> <p>The measure would provide \$21.5 billion for fiscal 2018 for CHIP, increasing to \$25.9 billion by fiscal 2023. The fiscal 2023 amount would come from two semiannual allotments of \$2.85 billion and an additional \$20.2 billion for the first half of the year that would remain available until expended.</p> <p>This House voted 230-197 to pass the legislation on January 18, 2018. The Senate amended the bill and voted 81-18. This legislation was resolved in the House on January 22, 2018 and passed with a vote of 266-150. The President signed the bill into law (Public Law 115-120) on January 22, 2018.</p>
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AGENDA ITEM # 6

**BIGHORN DESERT VIEW WATER AGENCY STANDING COMMITTEE
PLANNING/LEGISLATIVE/ENGINEERING/GRANT/SECURITY
AGENDA ITEM SUBMITTAL**

Meeting Date: February 20, 2018

To: Planning/Leg./Eng/Grant/Sec. Comm.
Board of Directors

Budgeted: No
Budgeted Amount: up to \$50,000
Cost: up to \$50,000 matching funds

From: Marina D. West

General Counsel Approval: on-going
CEQA Compliance: N/A (planning)

Subject: Colorado River Funding Area - Pending DAC Involvement Grant Award

SUMMARY

The Agency is to receive \$50,000 in funding from the Colorado River Funding Area through the Disadvantaged Community Involvement Grant Proposal Process. Matching funds are not a requirement of the grant but the Agency did commit to matching funds, up to \$50,000, should they be required.

The funds will be used to complete a report on alternatives for addressing elevated uranium found in Well Nos. 2, 3 and 4. The range of alternatives includes wellhead treatment, blending or abandonment of the well field in lieu of cleaner water sources elsewhere within the Agency boundaries. The analysis would include capital as well as operations and maintenance costs of each alternative.

The regional proposal has been accepted by the Department of Water Resources and will be awarded in total to one entity, Coachella Valley Water District. CVWD will then sign individual agreements with each associate agency. Agency counsel has already reviewed and approved the draft agreement.

The funding agreement will be brought to the full Board of Directors for approval and can be declined at that point if desired.

RECOMMENDATION

Information only

BACKGROUND/ANALYSIS

The region overseen by the Colorado Regional Water Quality Control Board has been provided a "pool" of money for the Disadvantaged Communities in the region. The grant is being awarded from Proposition 1 funds. The Mojave Water Agency is one of the eligible Integrated Regional Water Management Regions within the Colorado River Funding Area. The Bighorn-Desert View Water Agency is one of several partners in the MWA region alongside Hi-Desert Water District, Joshua Basin Water District, 29 Palms Water District and County of San Bernardino's Pioneertown system (CSA 70/Zone W-4).

Using a funding distribution formula pre-approved by the Department of Water Resources, Bighorn-Desert View Water Agency received an appropriation share of \$50,000. The project selected from the approved MWA Integrated Regional Water Management Plan (IRWMP) was the Uranium Treatment Alternatives Analysis Activity due to the amount of funding available and the ranking of the Agency's projects on the IRWMP list.

Below is the full list of projects and entities included in the Colorado River Funding Area:

Table C-1: Summary of Proposed DAC Involvement Activities

Activity Sponsor	Planning Activity
Funding Area-Wide Activity	
CVWD	1. Grant Proposal and Administration
CVWD	2. DAC Needs Assessment
Coachella Valley IRWM Region Activities	
CWA	3. Hexavalent Chromium Treatment Design
CVWD	4. East Valley DAC Design and Environmental
MSWD	5. Groundwater Protection Program – Design and Engineering for Areas H & I
Mojave IRWM Region Activities	
BDVWA	6. Uranium Treatment Alternatives Analysis
District	7. Pioneertown Pipeline & Booster Station Design Services
TPWD	8. SNMP Monitoring Plan, Phase 4
JBWD	9. Chromium VI Remediation Activity – RCF Pilot Study, Planning & Design
HDWD	10. Wastewater Reclamation Activity – Environmental Compliance
Imperial IRWM Region Activities	
County	11. Imperial County Planning Activity
San Geronio IRWM Region & Non-IRWM Area Activity	
TBD	12. San Geronio & Non-IRWM Area Planning Activity

PRIOR RELEVANT BOARD ACTION(S)

7/22/2014 Motion 14-037 A motion to adopt Resolution 14R-12 Adopting the Mojave Water Agency Integrated Regional Water Management Plan Pursuant to the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Prop. 84).



Colorado River Funding Area

**Proposition 1
Disadvantaged Community
Involvement Grant
Proposal**

Submitted by:

**Coachella Valley Water
District**

on behalf of the Colorado River
Funding Area Partners

Revised October 2017

Description

BDVWA relies on groundwater as the primary water supply for its service area which is comprised of DACs. Currently, BDVWA pumps groundwater for its customers via six active groundwater wells in the Ames-Means Valley Groundwater Basin and two in the Johnson Valley Groundwater Basin. BDVWA provides water services to its customers via two water systems. The water system associated with this planning activity is supplied by two active wells and serves approximately 100 AFY (in 2016) to 1,525 customers. BDVWA owns two additional wells that are currently inactive, one of which (Well 4) is currently inactive due to elevated levels of uranium. The Agency received correspondence from the Division of Drinking Water (DDW, formerly Department of Public Health) on April 14, 2010 documenting elevated levels of uranium in the system and recommending BDVWA “consider long term solutions for treatment if the MCL is exceeded”.

The *Uranium Treatment Alternatives Analysis Activity* will assist the Agency in determining options best suited to deal with elevated uranium in its “Flamingo Heights Wellfield” which would then allow BDVWA’s Well 4 to be brought back to an “active” status and provide BDVWA with a plan should other wells in this wellfield begin to exceed the uranium MCL. The *Uranium Treatment Alternatives Analysis Activity* includes evaluating various mechanisms by which BDVWA could address elevated uranium such as wellhead treatment or blending and the capital costs associated with the options identified.

Activity Justification

BDVWA’s service area qualifies as a DAC, with the majority qualifying as a severely DAC according to the DWR DAC Mapping Tool. BDVWA’s water system that serves the Desert View service territory, which has an approximate population of 1,525, includes a total of four wells, two of which are currently inactive due to elevated uranium levels (including Well 4). The SWRCB DDW in 2010 recommended BDVWA “consider long term solutions for treatment if the MCL is exceeded”. In late 2016, the Agency began performing water quality testing of the inactive Well 4 on a quarterly basis. The first two quarters of testing indicate the uranium levels will exceed the MCL as calculated using the Running Annual Average (RAA) and therefore it is highly unlikely the well can be brought back to active status without some form of mitigation for uranium. Without Well 4, this water system relies on two wells to serve this portion of BDVWA’s service area, one of which is located in the same geographic area as the two inactive wells with elevated uranium. If the two remaining active wells were to fail, BDVWA would have to activate an emergency intertie with Hi Desert Water District, which would increase the water rates for these severely DACs. The *Uranium Treatment Alternatives Analysis Activity* will allow BDVWA to determine a solution to the elevated uranium levels, while increasing supply reliability and protecting water rates for the DACs within its service area. Until a proposed solution to the elevated uranium levels is identified, BDVWA will continue serving water with elevated uranium levels to its customers.

Task Outline, Deliverables, Milestones, and Timing

Task 6.1: Activity Administration

This task includes activity administration, including preparation of progress reports and invoicing. BDVWA will coordinate with MWA, the Mojave IRWM Region’s point of contact, and project consultants. Activity administration will be submitted on a quarterly basis per requirements of the Final Grant Agreement. BDVWA will prepare a Activity Completion Summary for inclusion within the CRFA Final Report summarizing work completed under the grant contract.

Task 6.1 Deliverables

- Quarterly Progress Reports
- Quarterly Invoices
- Activity Completion Summary

Task 6.1 Milestones

- Grant Award
- Execution of agreement with DWR
- Quarterly invoicing

- Activity completion

Task 6.1 Timing

BDVWA will begin activity administration at the Grant Execution Date. BDVWA will submit invoices and progress reports starting three months after grant contract execution through activity completion on a quarterly basis. BDVWA will prepare and submit a Final Activity Completion Report within 45 days of activity completion.

Task 6.2: Uranium Treatment Alternatives Analysis

BDVWA will retain a consultant to complete a Treatment Alternatives Analysis for achieving compliance with the uranium MCL in Flamingo Heights Wellfield, specifically Well 4.

Task 6.2 Deliverables

- Treatment Alternatives Analysis Report

Task 6.2 Milestones

- Completion of Treatment Alternatives Analysis Report

Task 6.2 Timing

BDVWA will retain a consultant to begin the treatment alternatives analysis work at the Grant Execution Date. The report is anticipated to take up to 15 months, with completion no later than September 2018.

Activity 7: Pioneertown Pipeline & Booster Station Design Services

Activity Description

Activity Sponsor

County of San Bernardino Special Districts Department – County Service Area (CSA) 70-W-4 Pioneertown (District)

Activity Partners

None

Description

The District provides an assortment of municipal type services to unincorporated communities through the County of San Bernardino. The communities served include many DACs, including Pioneertown. The District operates and maintains CSA 70, Zone W-4, Pioneertown. The District serves Pioneertown with five active wells, all of which have Arsenic and Fluoride levels exceeding the MCL allowed by DDW. Furthermore, the District is in need of additional water supplies to meet its service area demands. As such, after performing a preliminary evaluation of several options to determine the most effective method to mitigate both water quality and quantity issues, the District has opted to abandon its existing wells to import and pump non MCL tainted potable water from a Hi-Desert Water District (HDWD) well located in Yucca Valley via a pipeline and booster stations. In order to convey the water from the HDWD well, a pipeline and booster pump stations are to be designed. Design for the pipeline and two booster stations was completed previously. However, modifications are required, as discussed below. The *Pioneertown Pipeline & Booster Station Design Services Activity* will include design modifications to the existing design of Booster Station No. 2 to convey water from HDWD to the District.

Preliminary design of Booster Station No. 2 was completed; however, modifications to the previous design will be conducted to include a below grade tank and booster station per request of the property owner (Wildlands Conservancy Group). If changes aren't accommodated the use and purchase of the property would be denied.

Activity 6: Uranium Treatment Alternatives Analysis

Activity Budget Description

Activity Sponsor

Bighorn Desert View Water Agency (BDVWA)

Budget

Table F-13 provides a budget summary for the *Uranium Treatment Alternatives Analysis Activity*. The total activity cost is \$100,000 and BDVWA is requesting \$50,000 in grant funding. BDVWA will use cash reserves to fund the remaining \$50,000. **Table F-14** provides a detailed budget table to demonstrate how the budget shown in **Table F-13** is reasonable to complete activity tasks. Invoicing for the consultant will occur via billing on a time and materials basis.

Table F-13: Budget Summary for Activity 6

Budget Category	Cost Share	Grant Request	Total
Task 6.1: Activity Administration	\$10,000	\$ 0	\$10,000
<i>Task 6.1a: Reporting</i>	<i>\$5,000</i>	<i>\$0</i>	<i>\$5,000</i>
<i>Task 6.1b: Invoicing</i>	<i>\$5,000</i>	<i>\$0</i>	<i>\$5,000</i>
Task 6.2: Uranium Treatment Alternatives Analysis	\$40,000	\$50,000	\$90,000
Activity 6 Total	\$50,000	\$50,000	\$100,000

Table F-14: Budget Detail for Activity 6

Budget Category	Unit Cost (\$)	Units	Number of Units	Total Cost
Task 6.1: Activity Administration				\$10,000
<i>Task 6.1a: Reporting</i>	-	-	-	<i>\$5,000</i>
BDVWA Staff	\$100	hours	50	\$5,000
<i>Task 6.1b: Invoicing</i>	-	-	-	<i>\$5,000</i>
BDVWA Staff	\$100	hours	50	\$5,000
Task 6.2: Uranium Treatment Alternatives Analysis				\$90,000
<i>Task 6.2a: Analysis</i>	-	-	-	<i>\$90,000</i>
Consultant – Project Manager	\$200	hours	180	\$36,000
Consultant – Engineer	\$150	hours	360	\$54,000
Activity 6 Total				\$100,000

AGENDA ITEM # 9

Bighorn-Desert View Water Agency

Board of Directors

Michael McBride, President
J. Dennis Staley, Vice President
Judy Corl-Lorono, Secretary
Terry Burkhart, Director
J. Larry Coulombe, Director



Agency Office

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Marina D West, P.G., General Manager

A Public Agency

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Planning/Legislative/Engineering Grant & Security Committee Special Meeting Report

Note Location: Administrative Office
622 S. Jemez Trail, Yucca Valley CA 92284
Tuesday, December 19, 2017 - 9:15 a.m.

Committee Members: Director Corl-Lorono & Director Burkhart

Call to Order

Director Corl-Lorono called the meeting to order at 9:20 a.m.

Pledge of Allegiance

Led by General Manager Marina West

Roll Call

Directors: Judy Corl-Lorono
Terry Burkhart

Staff: Marina West
Michelle Corbin

Approval of the Agenda

Director Corl-Lorono and Director Burkhart approved the agenda as presented.

Conference Call with Mojave Water Agency's Board of Directors Meeting – Recording Dated December 14, 2017

During the recorded conference call Letitia White of Innovative Federal Strategies gave the federal legislative update. Ms. White reported on the Tax Reform Package, the rollback of Executive Orders regarding the *Waters of the United States* Rule (WOTUS) and the Bureau of Reclamation feasibility studies.

Ms. White spoke about low interest loans available for waste water facilities and the pending infrastructure bill.

The conference call ended and General Manager West and Committee Members discussed the portion of the conference call regarding grant and loan possibilities for infrastructure. West mentioned the Integrated Regional Plan, planning grants pertaining to uranium in our groundwater and the integration of BDVWA and Goat Mountain water systems. West also reviewed the geology of the agency territory as it relates to water sources.

Public comment: None

Consent Items

- a. Special PLEGS Meeting Report, September 12, 2017

Public comment: None

Director Corl-Lorono and Director Burkhardt approved the report.

Public Participation

No public comment.

Verbal Reports

Committee Member Comments/Reports - None

General Manager Report

General Manager West gave a brief update on various projects beginning with the "Lookout" pipeline replacement. West reported the project is complete and staff is awaiting the results of water the sampling.

West also reported Well No. 6 is under assessment for possible rehabilitation.

West reported on the "pay as you go" meter, soon to be available at the Johnson Valley Bulk Water site.

West also reported a tank inspection contract has been awarded and will begin in January. Other projects mentioned included solar panels for the administrative office, leak detection, on-line bill view, meter read devices and staffing plans.

West spoke about pending California legislation which may implement a water tax onto each customer account.

Adjournment - Director Corl-Lorono adjourned the meeting at 10:47 a.m.