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Reading the Tea Leaves of the 112th Congress

The past week's congressional activity was notable for anyone who enjoys reading tea leaves. While the legislative process remains frozen in many respects, it does appear that some thawing may be occurring, as evidenced when House and Senate committees with jurisdiction over water infrastructure held dueling hearings on the importance of a vibrant federal partnership.

While prospects for passage of water infrastructure financing legislation is remote, the key take away from the hearings was the bipartisan acknowledgement that new ways to finance projects are necessary. To this end, infrastructure banks, public-private partnerships and other financing tools seem to be gaining favor as supplements to the State Revolving Loan Fund Program (SRF). And therein lies the challenge; the effort to enact alternative financing mechanisms could mean reductions in the SRF program in order to pay for the new programs. No one is on record of such an approach, but Pay-Go rules that require budget savings to allow for new programs could pose an important hurdle should Congress proceed with consideration of legislation.

This week, escalating gasoline prices and declining natural gas prices among other energy challenges facing the nation sparked the introduction of Senate energy legislation. The bill targets clean energy supplies and is viewed as the first step in what could become a comprehensive response to the energy supply picture later this year. Ironically, the one measure that could create jobs, the highway bill, is

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currently running into a series of political potholes that are slowing progress. However, strong interest on both sides of the aisle to find a solution to invest in the nation's roads, transit and bridges may mean a compromise being developed later this fall.

House and Senate appropriators continued to aggressively move forward on their respective spending bills to allow for the development of a final budget this fall, presumably during a Lame Duck Session. But alas, a reminder that we remain in a contentious environment occurred when the Senate Majority Leader advised the Senate that its failure to consider more than 300 pending Administration nominations to federal agencies, courts and commissions could mean a massive recess appointment by the President. This announcement was met with the challenge from the Senate Republican Leader that this could only happen if the Senate was to go into recess, something he will not allow.

Of course, the other big news of the week was the announced retirement of more Members (Senator Snowe, Rep.'s Dick and Drier) illustrating the impact that the gridlock is taking. Nothing is more liberating than being a free agent. The growing number of retiring Members may mean that come this fall, when the session is nearing its conclusion, significant numbers on both sides of the aisle may be free to engage in meaningful compromise, setting the stage for action on legislation.

Transportation Reauthorization - Grinding the Gears

At the end of the week, House Republicans appeared to back-off work on a scaled-back 18-month bill that would have reauthorized the Highway Trust Fund into mid-2013, reconnect federal transit funding to the trust fund, and seek \$40 billion in new cuts to federal pensions. The remainder of the bill was expected to retain most of the consolidation, project streamlining and other policy provisions contained in the original ([HR 7](#)) legislation. However, on Thursday House Speaker John Boehner (R-OH), announced that consideration of an 18-month option was falling flat with House GOP Members. Speaker Boehner stated, "Apparently our Members don't think too highly of it, I would only think of it as a fall-back measure." According to House Transportation staff, potential options on the table include: passing a clean, short-term extension, bringing the original bill to the floor, developing an 18-month extension, that ditches the alternative transportation account, or supporting the Senate Bill (if passed).

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In the Senate, debate began on [MAP-21](#), the two-year \$109 billion surface transportation reauthorization bill. As the bill came to the floor, it immediately became a magnet for non-transportation issues clouding prospects for a swift vote.

The next step in the Senate is for the bill is to either have the pending Reid amendment (consolidating provisions and agreeing to technical amendments) agreed to by unanimous consent or have it pass on a cloture vote (60 votes) which would limit debate and prohibit any further non-transportation amendments.

Clean Energy Bill Introduced in Senate

On March 1, Senate Committee on Energy Chairman Jeff Bingaman (D-N.M.) introduced the [Clean Energy Standard Act of 2012](#). The legislation requires that large power companies supply increasing amounts of electricity from low-carbon sources like wind, solar, nuclear and natural gas beginning in 2015. By 2035, the bill promotes providing 84 percent of power produced by large utilities will come from low-carbon sources.

- [Two-Page Summary](#)
- [Section-by-Section Summary](#)

House Investigation of Water Infrastructure Funding Needs

On Tuesday, the House Committee on Transportation and Infrastructure convened a hearing entitled, "[A Review of Innovative Financing Approaches for Community Water Infrastructure Projects](#)." The committee heard testimony from a diverse group of public officials, investor owned utilities, and financial analysts, including: Indianapolis Mayor Gregory A. Ballard; Mr. David Williams, Director of Wastewater, East Bay Municipal Utility District (CA); Mr. Aurel Arndt, General Manager, Lehigh County Authority (PA); Eric Petersen, Esq., Partner, Hawkins Delafield & Wood LLP; Mr. Thaddeus Wilson, Vice President, M3 Capital Partners LLC; Mr. Jeffrey Sterba, President & CEO, American Water; Mr. Jeff Eger, Executive Director, Water Environment Federation; and Mr. Steven Fangmann, Executive Vice President, D & B Engineers and Architects.

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In general, the House committee's members were in agreement that substantial water infrastructure investments are needed in the nation's infrastructure. This need, they agreed, is a function of both rehabilitation of systems as well as assistance to meet new mandates such as stormwater and nutrient controls. Because of the growing need, members cited the challenge at the federal level with calls to restrain federal spending. To this end, the committee indicated that additional financing tools would become increasingly relevant in the years ahead as a supplement to the State Revolving Loan Fund Program. Among the options under consideration is the creation of a loan program/credit enhancement program known as the Water Infrastructure Financing Innovation Act or WIFIA, legislation to increase the availability of private activity bonds that could support public private partnerships, and renewing the SRF program. Actual committee legislation has not been introduced, but staff indicate that the Chairman of the Subcommittee on Water Resources and Environment will likely move to introduce a bill in the near future.

During the hearing, David Williams, testifying on behalf of the National Association of Clean Water Agencies (NACWA) stated, "It is critical that we watch closely EPA's integrated planning effort but also seriously assess the CWA's capacity to embrace the utility of the future concept and to allow our municipalities and states to work together toward ensuring that limited resources are spent in a manner that maximizes water quality, community benefits, as well as local jobs and economic prosperity." There were a limited number of comments, where the issue of a trust fund was mentioned as a policy that needs to be considered as a financing option. However, it was clear that support for such an approach, given the fiscal environment, was not strong.

Senate Holds First in Series of Hearings on Water Infrastructure

On February 28, the Senate Committee on Environment and Public Works, Subcommittee on Water and Wildlife held the first on a series of hearings entitled, "[Local Government Perspectives on Water Infrastructure](#)." Testifying at the hearing were: Stephanie Rawlings-Blake, Mayor - City of Baltimore; Jerry Johnson, General Manager - Washington Suburban Sanitary Commission; and Ms. Kathy Horne, Executive Director - Alabama Rural Water Association.

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In his opening statement, Chairman Ben Cardin (D-MD) stated that the hearings were being held to establish a record for a greater and longer-term investment in the nation's water infrastructure. He focused his remarks on the public health risk due to aged water systems and reiterated his support for the establishment of a national water infrastructure bank. Ranking Member Jeff Sessions (R-AL) spoke of the importance of investing in rural infrastructure and the need for greater flexibility under the SRF program.

Baltimore Mayor Rawlings-Blake testified in support of a water infrastructure financing and innovation authority as a component of a sustainable national effort. She also provided enthusiastic support for EPA's "integrated planning approach" while urging that it be expanded to include drinking water.

Other witnesses highlighted efforts by the entity to address complex infrastructure challenges. He specifically noted that they have undertaken an asset management plan, participate in an integrated infrastructure effort with county stakeholders and have reduced energy costs and ghg emissions by utilizing wind power. Providing a rural view, Director Horne discussed the importance of rural water systems to the public and economic health of their communities. She noted the lack the technical capacity to address complex regulatory and technical issues in rural areas and the role that the federal agencies can provide with technical and financial assistance.

EPA Administrator Jackson Highlights FY 2013 Water Priorities

On February 28, the House Committee on Energy and Commerce, Subcommittee's on Energy and Power and Environment and the Economy held a joint hearing on "The FY 2013 EPA Budget." U.S. Environmental Protection Agency Administrator Lisa Jackson, testified, "This request recognizes the importance of our partners at the state, local and tribal level. As you know, they are at the front lines of implementing our environmental laws like the Clean Water Act and the Clean Air Act. In fact, the largest portion, 40 percent of EPA's funding request, is directed to the State and Tribal Assistance Grants appropriation to support their efforts. Specifically, this budget proposes that \$1.2 billion -- nearly 15 percent of EPA's request -- be allocated back to the states and tribes through categorical grants. This includes funding for State and Local Air Quality Management grants, Pollution Control grants and the tribal general assistance program. The budget also proposes that a combined \$2 billion -- another 25 percent of EPA's budget request --

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also goes directly to the states for Clean Water and Drinking Water State Revolving Funds. This funding will help support efficient system-wide investments and development of water infrastructure in our communities. We are working collaboratively to identify opportunities to fund green infrastructure, projects that can reduce pollution efficiently and less expensively than traditional gray infrastructure.”

In addition, Administrator Jackson added, “Also, as part of this request, EPA includes funding increases into key areas that include green infrastructure and hydraulic fracturing. As I've mentioned before, natural gas is an important resource, which is abundant in the U.S., but we must make sure that the ways we extract it do not risk the safety of public water supplies. This budget continues EPA's ongoing congressionally-directed hydraulic fracturing study, which we have taken great steps to ensure is independent, peer reviewed, and based on strong and scientifically defensible data.”

Best Political Quote(s) of the Week



House Committee on Transportation and Infrastructure Chairman John Mica (R-FL) vented his frustration with the transit community for opposing the creation of an alternative transportation account providing a dedicated share of gas tax money, “The public transportation people, even though we set up a separate fund and gave them five years' funding, they threw their toys out of the playpen and said no, that this is unacceptable.”

- * [Video](#) of Chairman Mica speaking at American Association of State Highway and Transportation Officials' meeting expressed that, “transit has shafted themselves.” He also included in his remarks a comment about critics “smoking funny weed.”

New Schedule for IRIS Hexavalent Chromium Assessment Announced

EPA has developed a new schedule for completing the IRIS hexavalent chromium assessment, which can be found in IRIS Track. Based on the recommendations of the external peer review panel, EPA will consider the results of recently and soon to be completed peer-reviewed primary research on the chemical before finalizing the IRIS assessment. The oral assessment will be

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revised to address the peer review comments and combined with the inhalation assessment, which is currently in draft development. EPA anticipates that the draft assessment for hexavalent chromium (oral and inhalation) will be released for public comment and external peer review in 2013. (Source USEPA – 2.28.2012)

EPA - Small Drinking Water and Wastewater Grant

The U.S. Environmental Protection Agency [announced](#) the availability of \$15 million in funding for training and technical assistance to small drinking and wastewater systems, defined as systems that serve fewer than 10,000 people, and private well owners.

New Reports and Studies

[RFP- Renewable and Alternative Energy Power Production](#)

The U.S. Army Engineering and Support Center, Huntsville, has issued a draft Request for Proposal (RFP) for \$7 billion in shared capacity contracts to procure reliable, locally generated, renewable and alternative energy through power purchase agreements or other contractual equivalents.

New Report - American Water Works Association - "[Buried No Longer: Confronting America's Water Infrastructure Challenge](#)" - The cost of repairing and expanding U.S. drinking water infrastructure will top \$1 trillion in the next 25 years.

[Presidential Memorandum — Proposed Revised Habitat for the Spotted Owl: Minimizing Regulatory Burdens](#)

[Pocket Guide to Transportation 2012](#) (transportation geeks rejoice)

[Meeting the Infrastructure Imperative: CAP Proposes an Affordable Plan to Put Americans Back to Work Rebuilding our Nation's Infrastructure](#)

Center for American Progress

[CRS — Federal Land Ownership: Overview and Data](#)

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[Study: Nation's urban forests losing ground](#)

Hearings

Senate

Date: March 6, Time: 2:30 pm
Committee: Energy and Natural Resources
Hearing: FY2013 Budget: Forest Service

Date: March 7, Time: 2:30 pm
Committee: Energy and Natural Resources
Hearing: Pending National Parks Bills

Date: March 12, Time: 2:00 pm
Committee: Energy and Natural Resources
Hearing: U.S. Navy Energy and Water Policies

Date: March 15, Time: 2:15 pm
Committee: Indian Affairs
Hearing: Indian Water Rights

House

Date: March 6, Time: 2:00 pm
Committee: Natural Resources
Hearing: FY2013 Budget: Bureau of Reclamation, Water Resources Programs

Date: March 7, Time: 2:00 pm
Committee: Appropriations
Hearing: U.S. Army Corps of Engineers

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Date: March 27, Time: 10:00 am

Committee: Appropriations

Hearing: Energy Efficiency and Renewable Energy; Fossil Energy; Office of Electricity
Delivery and Energy Reliability

Date: March 28, Time: 2:00 pm

Committee: Appropriations

Hearing: Bureau of Reclamation

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