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Senate Rules the Roost

At the close of the week, it became clear that efforts to move a surface transportation bill in the House were akin to a rollover accident and the survivors are now walking around the car to see what can be salvaged. The legislative process was finally put on hold as House Leadership sent signals that accepting the Senate bill may be an option, whether this is truly viable approach or a simply a motivation tool is uncertain.

The Senate vehicle, [S. 1813](#), is important for numerous reasons. However, one provision contained within the Senate legislation is especially intriguing and has the potential to boost prospects for water infrastructure. Under the legislation, the use of Private Activity Bonds for water and wastewater infrastructure needs would become available without reference to the current volume cap on the issuance of such bonds, increasing options to finance public-private partnerships as well as installing basic water quality improvement technologies.

In addition to the expected completion of Senate debate on the surface transportation bill and its passage next week, the next few weeks are expected to see both chambers complete drafting a fiscal year 2013 budget resolution that would become a blueprint to guide spending levels overall. What was once considered a cakewalk, the budget resolution process appears headed for politicization beyond the norm. This is the case because House budget hawks have begun to beat the drums to reduce overall spending levels. Under the provisions of last

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year's Budget Deficit Reduction and Control Act, Congress agreed to overall spending levels for fiscal year 2013. The new effort to revise the statutory limits could serve as a catalyst to freeze any budgetary decision making leaving the spending committees to decide how best to align spending priorities within unspecified limits. Or as Yogi Berra famously said: "It's deja-vu all over again."

Senate Reaches Agreement and Moves on Transportation Reauthorization

This week, the Senate reached agreement on the procedural mechanism needed to move a surface transportation reauthorization forward by agreeing to a package of 30 amendments. Eighteen of the amendments related directly to transportation policy, and twelve had nothing to do with transportation (referred to as "non-germane"). Debate on the amendments to MAP-21 ([S. 1813](#)), a \$109 billion two-year surface transportation package, began on Thursday and will resume next week.

Amendments - Approved

- ☑ Local Access and Control: Provides local communities and metropolitan regions with access to the "Additional Activities" funding through a competitive grant program for main street revitalizations, boulevard conversions, new bike facilities, or safety improvements to make streets safer for everyone. Large metro areas will receive some funds directly. (Cardin #1549)
- ☑ Bridge Repair This would help provide adequate funding and flexibility to states to repair and rehabilitate the 180,000 federal-aid bridges that are not on the National Highway System (NHS). These bridges would become eligible for a 40% share of the main highway program funds (National Highway Performance Program) that aren't currently required for repairing the National Highway System. (Blunt #1543)
- ☑ Rural Schools/Road Funding - extends Payment in Lieu of Taxes (PILT) funding through FY 2013 and Secure Rural Schools (SRS) funding through FY 2012 (Baucus)
- ☑ RESTORE (the Gulf) This would address a key recommendation of the President's National Oil Spill Commission to direct 80% of Clean Water Act penalties collected as a result of the BP Gulf oil disaster towards restoration of the Gulf of Mexico ecosystem. (Nelson FL-Shelby-Landrieu #1822)

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- Congestion Mitigation and Air Quality Improvement funds could be used to build infrastructure to support electric vehicles (Manager's Amendment - Carper)

Amendments - Failed

- Outer Continental Shelf – would bypass environmental review process required by NEPA (Vitter #1535)
- Boiler MACT - This amendment nullifies existing protections against mercury and toxic air pollution from incinerators and industrial boilers (Collins #1660)
- OMB/Duplicative Programs - This would cut domestic discretionary program funding caps by an additional \$10 billion from the recently agreed-upon level in the Budget Control and Deficit Reduction Act. (Cochran #1738)
- Keystone Pipeline This prohibits oil exported through the Keystone XL pipeline to be sold internationally. (Wyden #1817)
- Keystone pipeline - Already-rejected Keystone XL tar sands oil pipeline without environmental review (Hoeven #1537)

The House - Struggling to Reach 218

On Friday, House members left town for a week-long District work period after failing to consider surface transportation legislation. According to media reports, House Republican Leaders polled their Members in a closed-door session on Thursday regarding their position on [H.R. 7](#). The results (although not public) apparently revealed that the magical 218 votes necessary to move the bill remains elusive. House Speaker Boehner stated in a press briefing that with votes still short for five-year bill the House's plan right now is to bring up the two-year Senate version of the transportation measure - or something like it."

House Democrats remain on the outside looking in on the bill, Congressman Peter DeFazio (D-OR) responded to the Speaker's comments on bring up the Senate's transportation bill, "They're threatening the Republican caucus with a pretty good piece of legislation in order to motivate them to vote for a very bad piece of legislation. I would certainly support, as would a substantial majority of Democrats support, the Senate version, which means the Republicans won't bring it up."

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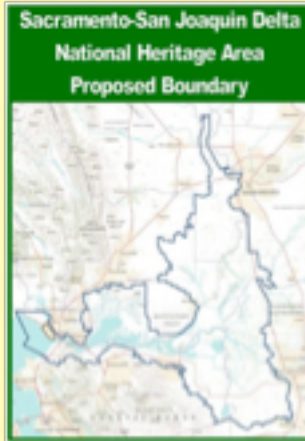
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Hearing Held on Delta Heritage Area Legislation in Senate

On March 7, the Senate Committee on Energy and Natural Resources, Subcommittee on National Parks held a hearing on [S. 29](#), a bill to establish the Sacramento-San Joaquin Delta National Heritage Area. Dr. Stephanie Toothman, Associate Director, Cultural Resources, National Park Service (NPS), Department of the Interior testified that they support the goals of the legislation, however, they asked the Committee to defer action on the bill until completion of a feasibility study that is currently being conducted by the Delta Protection Commission. The NPS is currently reviewing the Commission's draft study for consistency with national guidelines. The NPS believes that it would be premature to support S. 29 until its feasibility review is completed. Dr. Toothman testified that the NPS expects to have this information by May 2012.

Testifying in support of the bill, Solano County (CA) Supervisor Michael Reagan testified that the bill is a strong step towards protecting and enhancing the future of the Delta. A mark up of the legislation has yet to be scheduled.

[\(Supervisor Reagan's testimony - starts at 57:50\)](#)

House Approves Hydropower Bill

On March 3, the U.S. House of Representatives approved legislation, [H.R. 2842](#), that would give the Interior Department's Bureau of Reclamation a blanket authorization to install small hydropower units on all its canals, pipelines and other water conduits. Non-federal entities could use the facilities to obtain electricity and would pay rental fees to the government.



Army Corps of Engineers Revises and Renews Nationwide Permits

The U.S. Army Corps of Engineers announced the reissuance of its [Nationwide Permit](#) (NWP) Program. NWPs provide streamlined authorization for certain activities under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act and are reevaluated and reissued every five years by the Corps. The 2007 NWPs are set to expire on March 18, 2012. The 2012 NWPs will take effect on March 19, 2012.

New Legislation, Reports and Studies

[S. 2162](#) - The Project Rebuild Act (Reed D-R.I.) - \$15 billion in spending to redevelop foreclosed properties across the country.

[S. 2159](#) - Extends the authorization of the Drug-Free Communities Support Program through fiscal year 2017.

[S. 2138](#) - Corps of Engineers Project Delivery Flexibility Act of 2012

[Energy Projects on Federal Lands: Leasing and Authorization](#) (PDF)

[Costs for Changing Pollution Criteria in Florida Waters Likely to Exceed EPA Estimates](#)
National Research Council

[Federal Financial Support For The Development And Production Of Fuels And Energy Technologies](#)
Congressional Budget Office

[EPA Pollution Prevention Grant Program](#) (PDF) supports State and Tribal technical assistance programs which help businesses identify better environmental strategies and solutions for reducing or eliminating waste at the source. EPA anticipates it will award approximately \$4.1 million in total program funding during Fiscal Year (FY) 2012. The goal of the grant program is to help businesses adopt practices that aid in reducing pollution at the source and/or conserving water and energy resources.

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Hearings

Senate

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

Date: March 14, Time: 2:30 pm
Committee: Energy and Natural Resources
Hearing: Pending Nominations

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

House

Date: March 12, Time: 1:00 pm
Committee: Natural Resources
Hearing: Federal Regulation Economic Impacts in the West (Field Hearing)

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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