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## ACPPA Spends Time with ACEC's Pemrick

*Actionline* recently sat down with Keith Pemrick, director of environment & energy programs at the [American Council of Engineering Companies](#) (ACEC). ACEC works closely with ACPPA on efforts to encourage robust investment in federal infrastructure programs.

**Actionline:** What are ACEC's top legislative priorities for the remainder of the year?

**Pemrick:** ACEC's top legislative priorities are passage of a Water Resources Development Act (WRDA) conference report, addressing the looming Highway Trust Fund crisis, enacting a long-term reauthorization of highway and transit programs with increased investments, and supporting tax reform that treat all business structures equally.

**Actionline:** With midterm elections rapidly approaching, what can we realistically expect Congress to get done before the end of the year? Any hope for a Water Resources Development Act conference report? Maybe a highway bill?



**Pemrick:** I am optimistic that Congress will pass a WRDA conference report sometime in May or June. Both the House and Senate passed their respective bills last year with overwhelming majorities and I believe too much work has been put in by all sides not to see a finished product. In addition, WRDA will provide a much needed economic boost to the country.

A long-term transportation reauthorization bill is definitely doable. We got the last highway bill, MAP-21, done in 2012, a presidential election year, and there has always been broad, bipartisan support in Congress for transportation investment. But it won't be easy – Congress needs to find at least \$16 billion in additional annual revenue just to maintain current funding levels. In this budget climate, paying for a five- or six-year bill will be very tough.

**Actionline:** For several years, we've seen a dramatic decrease in Clean Water and Drinking Water State Revolving Fund (SRF) appropriations. In fact, since fiscal year 2010, funding for both SRFs has been slashed by more than 30 percent. Should we anticipate more cuts to the SRF programs? Is there any chance for actually increasing investment?

**Pemrick:** Unfortunately, I think we will continue to see cuts to the SRF programs through the traditional appropriations process. One of the major problems is that the President's budget request for both the Clean Water Act SRF program and Drinking Water SRF program was \$1.8 billion total, a \$581 million reduction from the 2014 enacted level. In the current political and budget climate, it is extremely difficult for the Chairman of the House Interior Appropriations Subcommittee (Congressman Ken Calvert) to convince his Republican conference that they should fund something at a level greater than what the President asked.

Another major problem specific to the Clean Water SRF is that Congress hasn't passed an authorization bill since 1994. Congressman Tim Bishop, the Ranking Democrat on the Water Resources and Environment Subcommittee, has introduced a bill to reauthorize the Clean Water SRF at \$13.8 billion over five years. It is my understanding that the House proposed including Clean Water SRF reauthorization in the WRDA conference report, although I am uncertain of the funding level. Including the SRF reauthorization in WRDA would go a long way in boosting funding levels above current appropriations.

According to the EPA, the anticipated investment need over the next 20 years is \$298.1 billion for wastewater projects and \$384.2 billion for drinking water projects – \$682.3 billion total. So even if Congress increases funding for the SRF programs, it will in all likelihood fall well short of meeting our country's needs.

**Actionline:** Reps. Jimmy Duncan, Jr. (R-Tenn.) and Bill Pascrell (D-N.J.) recently introduced the Sustainable Water Infrastructure Investment Act (H.R. 4237) to lift the cap on private activity bonds for water infrastructure projects. The legislation is a top priority for both ACPPA and ACEC. How can ACPPA members be helpful in getting the legislation over the finish line this year?

**Pemrick:** I don't think the path forward is through tax reform for two reasons: 1. Ways and Means Committee Chairman Dave Camp's tax reform proposal taxes the interest on new PABs; and 2. I set the chances of tax reform passing this Congress at slim to none.

Therefore, I foresee the best path forward for H.R. 4237 is through attaching it to a larger piece of legislation, such as surface transportation reauthorization. Lifting the cap on PABs for water infrastructure projects was yanked at the last minute of the MAP-21 conference in 2012, so there is some precedent for including it in the highway bill. Congressman Duncan's seniority on the Transportation and Infrastructure Committee should prove helpful as the debate begins on transportation reauthorization.

I would suggest ACPPA members reach out to their respective members of Congress and ask them to cosponsor H.R. 4237 to create a groundswell of support in the House prior to the transportation reauthorization debate and negotiations.

**Actionline:** Finally, as a long-time Capitol Hill staffer prior to joining ACEC, what advice do you have for ACPPA members to be effective advocates for the association's policy priorities and move the needle on some of the issues important to the industry?

**Pemrick:** I spent over twelve years working for Congressman Tim Holden, a former member of the House Transportation and Infrastructure Committee. Sitting on the committee, he keenly understood the

importance of transportation and infrastructure investment from both a safety and economic perspective. However, the vast majority of members don't have the privilege of sitting on that committee or its Senate counterparts and therefore aren't privy to the vast role transportation and infrastructure truly play in the lives of Americans. Everywhere we go we are impacted by transportation and infrastructure: home, work, the grocery store, the park, etc. The best way to make a case for the importance of increasing investment is relating it to issues back home. Inform the Member of Congress of sewers or bridges or sidewalks that present a problem in the community. Members rely on constituents to make them aware of important happenings in their towns. There is too much geography to cover for a member to be fully aware of all the problems in his/her district. That is where you come in: inform them and work with them to find a solution. Members of Congress care about their constituents and will help you; or at least the good ones do. Remember, all politics is local.

*ACPPA would like to thank Keith Pemrick for taking the time to share his insights. The views expressed in this interview are Mr. Pemrick's and not necessarily those of ACPPA.*

## **ACPPA, Industry Urge Congress to Support Private Activity Bond Legislation**

Since last month's House introduction of the Sustainable Water Infrastructure Investment Act ([H.R. 4237](#)), Sustainable Water Infrastructure Coalition steering committee members, including ACPPA, are pounding the pavement on Capitol Hill to build support.

The legislation, introduced by Reps. Jimmy Duncan, Jr. (R-Tenn.) and Bill Pascrell (D-N.J), lifts the cap on private activity bonds for water infrastructure projects, a long-time ACPPA top priority. In ACPPA's [letter of support](#) for H.R. 4237, President Richard Mueller wrote, "Removing the PAB volume cap will increase private investment in water infrastructure, create jobs, and address years of underfunding in one of our nation's greatest resources—clean water."

Response in House has been positive; however, we need your help to add cosponsors to the bill. Please take five minutes to visit the association's legislative action site (below) to send a note to your member of Congress urging support for the Sustainable Water Infrastructure Investment Act.



Click the envelope to join ACPPA in calling on lawmakers to cosponsor the Sustainable Water Infrastructure Investment Act (H.R. 4237).  
<http://acppa-action.channeldemocracy.com/>

## **Tax Extenders Moving with Bonus Depreciation, Increased Expensing**

On April 3, the Senate Finance Committee approved the Expiring Provisions Improvement Reform & Efficiency Act (EXPIRE Act) with strong bipartisan support.

The legislation, known inside the beltway as “tax extenders,” continues dozens of tax provisions that expired at the end of 2013, including important capital investment incentives such as bonus depreciation.

Specifically, the bill includes a two-year extension of 50 percent bonus depreciation for qualified property purchased and placed in service before January 1, 2016. It also makes a conforming change to the percentage of completion rules for certain long term contracts.

The full Senate will likely approve the EXPIRE Act in the near future. However, the House Ways & Means Committee is moving more slowly on tax extenders, as Chairman Dave Camp (R-Mich.) has announced his desire to examine each expiring provision individually through panel hearings and mark ups expected to continue well into the fall.

## **EPA, Corps Propose Broadened Clean Water Act Jurisdiction**

On March 27, the Environmental Protection Agency (EPA) and the Army Corps of Engineers released a draft [proposed rule](#) that would significantly broaden the definition of "waters of the United States" for protection under the Clean Water Act (CWA).

The Notice of Proposed Rulemaking (NPRM) addresses the scope of the CWA following two Supreme Court decisions, which environmental groups believe greatly reduced the application of the law to far fewer bodies of water than Congress originally intended when enacting the CWA.

Supreme Court decisions in 2001 and 2006 held that CWA protections only applied to "navigable waters," which according to the Court, do not include rivers that are completely within one state's borders, seasonally dry lakes and creeks, and other bodies of water not connected to larger water systems.

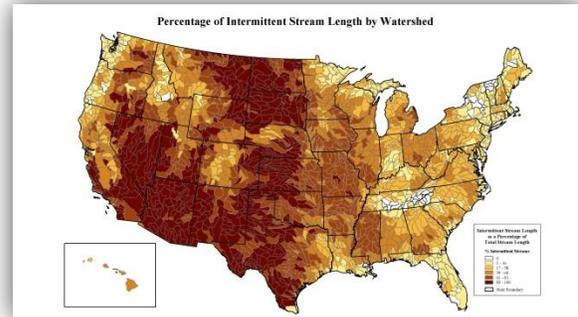
The agencies propose to define the “waters of the United States” as the following:

- All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters subject to the ebb/flow of the tide;
- All interstate waters, including interstate wetlands;
- The territorial seas;
- All impoundments of a traditional navigable water, interstate water, the territorial seas or a tributary;
- All tributaries of a traditional navigable water, interstate water, the territorial seas or impoundment; and
- On a case-specific basis, other waters, including wetlands, provided that those waters alone, or in combination with other similarly situated waters, including wetlands, located in the same region, have a significant nexus to a traditional navigable water, interstate water or the territorial seas.

### **It's Not too Late to Attend Cement & Concrete Day in D.C.!**

On April 30, come to Washington to advocate alongside industry colleagues at the second annual Cement & Concrete Day. Organized by Portland Cement Association. Participants will storm Capitol Hill to promote expanded use of cement and concrete in federal infrastructure projects. For more information, contact Daniel Fisher at 703-299-0784 or [Daniel.Fisher@potomac-law.com](mailto:Daniel.Fisher@potomac-law.com).

The proposal elicited praise from environmental groups and jeers from the business community. Industry organizations assert the policy will allow more federal intervention in local land use decisions, increase the regulatory burden on businesses, raise the cost of development, construction and mining without a proven benefit to the environment, and give the federal government unprecedented jurisdiction over private property.



Click the image for more information on  
"Waters of the United States"

A 90-day public comment period is required following the proposal's publication in the [Federal Register](#).

## Senate EPW Leaders Outline Highway Reauth Goals, Crises Looms

In an encouraging sign, the bipartisan group of lawmakers tasked with drafting the Senate's next highway reauthorization bill has come to a broad agreement on moving forward with a replacement of the Moving Ahead for Progress in the 21st Century Act (MAP-21).

On April 10, Senate Environment & Public Works (EPW) Committee Chairman Barbara Boxer (D-Cal.) and Ranking Member David Vitter (R-La.) announced the panel's desire to pursue a six-year transportation bill funded at current investment levels (adjusted for inflation).

Joined by Sens. Tom Carper (D-Del.), chairman of the Transportation & Infrastructure Subcommittee (T&I), and John Barrasso (R-Wyo.), T&I ranking member, the senators also committed to maintaining the formulas for the core transportation programs (avoiding formula battles that often derail highway bills), encouraging rural access to the transportation system, and leveraging local funding resources (e.g. the Transportation Infrastructure Finance and Innovation Act [TIFIA] program expansion).

The committee hopes to begin consideration of legislation prior to Memorial Day. With MAP-21 expiring on Oct. 1, it is encouraging that lawmakers are now focusing on reauthorization. While the EPW announcement is a positive development, the Finance Committee will need to find new revenue sources to fully fund a long-term bill, the thorniest issue in the process.



**DOT HTF  
Tracker**

Regardless, it is unlikely highway reauthorization will be completed in time to avoid the [imminent collapse](#) of the Highway Trust Fund (HTF). The Congressional Budget Office (CBO) projects that by mid-summer the HTF will be unable to support any new highway infrastructure investment, necessitating an expedited solution to maintain the program's near-term solvency while Congress completes work on a multiyear reauthorization bill. Estimates indicate inaction will jeopardize at least \$2.4 billion in equipment market activity (i.e., dealer revenue from sales, rental, and product support) and close to four thousand equipment dealership jobs.

## **Obama Administration Announces Another Keystone XL Delay**

On April 19, the U.S. State Department announced it is delaying the Keystone XL pipeline's National Interest Determination (NID) phase due to the "uncertainty" created by a Nebraska judge's February decision to invalidate a state law permitting the governor to authorize the project's construction in the Cornhusker state.

The State Department's proclamation came as it was conducting a 90-day consultation period, expected to conclude in early May, in which federal agencies had the opportunity to submit comments on whether the pipeline was in the national interest. The NID is expected to be the last step before President Obama approves or denies the project.

Early last year, after Nebraska lawmakers shifted exclusive route approval authority from the Public Service Commission (PSC), Republican Governor Dave Heinemann approved building approximately 200 miles of the pipeline proposed to go through his state. The state is integral to Keystone's completion, which will travel from Canada to the Gulf of Mexico.

Several land owners with property along the pipeline's path challenged the constitutionality of the legislature's decision to divest the sole project approval from the PSC. The governor appealed the court's ruling, asserting lawmakers had the power to transfer authority to him.

Lawmakers, including Democratic senators running tight reelection campaigns, have been pushing the White House to make a final determination as soon as possible. The administration's latest delay will only build more momentum for legislative action to approve the Keystone XL pipeline.

Please visit ACPPA Action (below) to urge your lawmakers to do everything in their power to get KXL built.

### **Pipeline Construction Beginning?**



Click the map to read about a North American pipeline that can actually move forward.



Click the envelope to join ACPPA and show lawmakers the importance of the Keystone XL pipeline project.  
<http://acppa-action.channeldemocracy.com/>