



Memorandum

January 5, 2022

To: Contra Costa County Board of Supervisors
From: Paul Schlesinger
Subject: 2021 Federal Year End Report

Despite a horribly partisan Congress immobilized by internal and external factors and marked by an unprecedented second round of impeachment proceedings following the historic events of January 6, the generational and all-pervasive pandemic, and the complete polarization created by perhaps the ugliest election cycle in our history (have I missed anything?), we are pleased to report significant progress on several fronts important to Contra Costa County.

Of course, the progress made in 2021 with regard to funding through the federal appropriations bills is only preliminary, as none have yet been enacted. While the House has passed its appropriations measures most pertinent to the County and our requests, the Senate has not passed any. As this is being written, the federal government is operating pursuant to a Continuing Resolution enacted in early December and in effect through February 18, 2022. It is not until several of these bills are signed into law that we will be able to close the book on our FY '21 earmark requests.

Ongoing Army Corps of Engineers Projects

Funding was obtained for water resources projects that have been high on the County's priority list. In the years since Congress imposed an earmark ban on itself (repealed in 2021), there had been two ways to secure Army Corps funding for local priorities: (1) work with the Administration to have them budgeted in the Administration's budget request, whereafter such amounts are routinely approved by Congress, and (2) utilize provisions funded in appropriations bills which provide additional, unallocated funding for the Army Corps, with instructions that the Corps itself determine how these additional monies are spent as part of a work plan to be submitted to Congress.

The Administration budget request submitted to Congress in May (about three months later than normal because of the entrance of a new Administration) included \$5.88 million for Suisun Bay dredging and \$600,000 for the maintenance dredging of San Pablo Bay and Mare Island Strait. These levels have been retained in measures considered in the House and Senate.

As described above, pending appropriations measures instruct the Army Corps to submit a work plan to Congress subsequent to the bill's enactment. It is our intention to work with County staff to ascertain whether increases in these amounts would be desirable and with the Corps to determine whether the amounts which Congress is on a pathway to provide are consistent with levels that match the capability of the Corps to work on them this year.

Advocacy related to the Sacramento-San Joaquin Delta

We have been pleased to work extensively with County officials and staff in advocating before the federal government to achieve the County's objectives regarding the Delta. These efforts have generally been in conjunction with other federal advocates working on behalf of their clients, specifically the other members of the Delta Counties Coalition (DCC).

Of particular note, when some in the DCC sought to focus on promoting the development of new water resources as a top priority, we worked with County staff to try and assure that the DCC keeps as its priority focus its very *raison d'être*: the rejection of a Delta conveyance project. We also worked with staff to assure that the DCC continued to vigorously oppose the San Luis Drain settlement.

Funding for Mount Diablo Mercury Mine Clean-up

We continued to work to keep alive federal funding sources for the clean-up of the Mount Diablo Mercury Mine. Given the long-held moratorium on earmarks and recognizing that it would not be possible to secure a line-item appropriation for this important project, we worked in the past to include language in the Statement of Managers accompanying a Water Resources Development Act (WRDA), specifically directing the Army Corps to give priority consideration to the Mount Diablo Cleanup when allocating funds made available for the Remediation of Abandoned Mine Sites program (RAMS). With this, we remain comfortable that any funding made available in Appropriations bills for the general RAMS program is virtually certain to be provided for our project whenever we may be ready for it.

We are pleased that, despite the fact that the Administration failed to recommend any funding for the RAMS program, the Senate has included \$2 million in its appropriations bill for FY '22. Senator Feinstein, in her role as Chair of the Senate Appropriations Subcommittee on Energy and Water Development, has been a champion in securing funding for this program. Her staff has in the past been quite explicit in telling us that the funding is intended to assist with our project.

Moreover, the Water Resources Development Act enacted in late December of 2020 increased by \$10 million the total amount authorized for RAMS projects.

Water Resources Development Act (WRDA)

Because the Water Resources Development Act of 2020 was signed into law just three days before the end of 2020, we thought it might be helpful to revisit provisions that were included and that we worked for on the County's behalf.

It has been the general intent of Congressional leadership to pass, every two years, a Water Resources Development Act (WRDA) authorizing projects and programs for the Army Corps of Engineers. In 2019, we were told by County staff of their concern that existing law posed an impediment to pursuing worthwhile projects in distressed communities in the County. In some cases, the County would serve as the nonfederal sponsor on a project, but existing law required that the County put up its 50% share of the cost of a feasibility study (local share generally capped at \$1.5 million) which it hesitates to do because of the uncertainty that the study will conclude that the project is economically feasible, with a benefit-cost ratio sufficient to allow it to move forward.

Working with House Committee staff, a provision was developed providing that for projects in disadvantaged communities, the Corps will review the economic feasibility of a project and let the community know if it is likely to be economically feasible before the feasibility study (which reviews both the economic and technical feasibility of a project) is begun. If it appears that a project may not be economically feasible (would produce a negative benefit-cost ratio), they will inform the community of modifications that might make it so. So, no cost share needs to be provided for a project that is not likely to be economically feasible. This provision is also likely to reduce the cost of a feasibility study, since this work has been undertaken prior to the initiation of the study. WRDA, in a separate section, clarifies that for the purposes of this provision, a disadvantaged community can be part of a larger community, such as a county, that is not disadvantaged and which is the local sponsor.

Another provision of the bill directs the Corps to prioritize planning projects related to climate change and extreme weather resiliency in disadvantaged communities.

Additionally, we worked with Congressman DeSaulnier's office to amend WRDA in its markup by the House Transportation and Infrastructure Committee, to assist the County with its harmful algal bloom predicament. Upon the Committee's release of its draft bill shortly before markup, we noted that the Great Lakes, the tidal and inland waters of the State of New Jersey, and Lake Okeechobee, Florida were specifically named as locations where the

Corps should carry out “a demonstration program to determine the causes of, and implement measures to effectively detect, prevent, treat, and eliminate, harmful algal blooms”. When we called this provision to the attention of Congressman DeSaulnier’s office and asked if he could add the County’s waterways to the designated list, they readily agreed. Then, when Congressman Garamendi’s office learned of our efforts, as a Committee Member he suggested that all the waterways of each of the five counties of the Delta Counties Coalition be similarly included. Congressman DeSaulnier offered the amendment in that form, and it was adopted.

Finally, WRDA includes a construction authorization for an ecosystem restoration project at Big Break utilizing the beneficial reuse of dredged materials from the Stockton Deep Water Ship Channel to restore 340 acres of intertidal marsh, a historical marsh previously converted into farmland until a levee break in 1928 inundated the island. Since then, Big Break has remained unvegetated open water. The project authorizes \$16.7 million in federal funding toward the \$25.7 million total project cost. The State Department of Water Resources is the nonfederal sponsor.

Federal Infrastructure Legislation

The Infrastructure Investment and Jobs Act, which contains the multiyear transportation reauthorization bill, addresses various issues raised in the County’s Federal Platform. In addition to project-specific funding referenced in the section below, the legislation:

- Has as a core principle the utilization of transportation funding to build stronger communities
- Increases funding for freight transportation
- Increases funding specifically for rural roads
- Contains funding for stormwater projects
- Contains bridge funding that may be directed to local governments on a competitive basis
- Contains various and many provisions intended to address climate change

Congressional Earmarks (*Community Project Funding Requests*)

2021 saw the return of the solicitation of earmarks in the transportation reauthorization/infrastructure legislation and the various appropriations measures. We were pleased to assist the excellent efforts of staff of the CAO’s office to help develop a plan for maximizing our return on earmark requests, prioritizing our various requests, and working with the departments in developing their requests and editing their submissions to

our delegation.

Working with our delegation, we were successful in having five projects included in the House-passed transportation reauthorization bill. They were:

- \$2 million – Appian Way Pedestrian Crossing Enhancements
- \$2.17 million – Market Avenue Complete Streets/North Richmond
- \$2 million – Mobility for All (North Richmond and Bay Point)
- \$3.905 million – Vasco Road Safety Improvements
- \$3 million – Norris Canyon Road Safety Improvements

Unfortunately, as the process for developing the infrastructure bill unfolded, a bipartisan group came together in the Senate and produced legislation that gained the approval of Members of both parties that did not contain earmarks. The Senate and House both passed this measure, and it has been enacted. As such, the County’s earmarks, and those of every entity in the nation, were not included in the final legislation that is now law.

With regard to earmarks, we have pursued several with our Delegation through the Appropriations Committees, and the following remain “alive” pending passage of Appropriations measures for FY ’22:

- \$1 million – Contra Costa Crisis Services Hub
- \$1,061,552 – Mobile Crisis Response Team Expansion
- \$900,000 – Collaborative Care Implementation
- \$750,000 – Just Transition Economic Revitalization Plan
- \$700,000 – Veterans Memorial Building Improvements/DeSaulnier District
- \$300,000 – Veterans Memorial Building Improvements/McNerney District

Miscellaneous Advocacy Efforts

In addition to managing the issues on the County’s legislative program, and given the dynamic nature of events in Washington, we have also brought various matters of interest to the County’s attention and assisted the County when new matters surfaced that required communication with, or the input of, our delegation.

Some of the diverse issues we have called to the County’s attention, worked on at the County’s behalf, or simply informed our Congressional delegation about, include:

- HR 6646 – Relaunching America’s Workforce Act

- The Green Act, as introduced by Congressman Thompson and ultimately enacted as part of the major infrastructure legislation
- The Coronavirus Relief Fund
- Advanced Quantitative Precipitation Information System funded by NOAA
- HR 1581 – The Build America’s Libraries Act
- Reallocation Process of the Emergency Rental Assistance Program
- S. 3011, Support for ARPA Flexibility Legislation
- Support of legislation related to tax exempt municipal bonds
- Comments to the FCC regarding the Affordable Connectivity Program
- Comments to the California Citizens Redistricting Commission
- Comments to DOT on their Draft Strategic Plan

Activities such as these certainly contribute to the long-held perception around Capitol Hill and elsewhere in Washington that we serve as the County’s office here in town; a place these offices can trust, knowing they are communicating, if through an agent, with appropriate County officials.

As always, it has been a privilege to represent the County with its efforts as they relate to the federal government. We would be pleased to elaborate on any aspect of this work and look forward to continuing our efforts on your behalf in the year ahead.