AGENDA ITEM NO.
M-1

COUNTY OF HUMBOLDT

For the meeting of: April 22, 2014

Date: April 17, 2014

To: Board of Supervisors

From: Phillip Smith-Hanes, County Administrative Officer PSH

Subject: County Administrative Officer Report: Federal Legislative Update and Various Other Topics

RECOMMENDATION(S):

That the Board of Supervisors receive an oral report from the County Administrative Officer regarding an update on federal legislative activity, and various other topics, and take action as may be required.

SOURCE OF FUNDING: N/A

DISCUSSION:

The County Administrative Officer will provide a brief oral report to the Board on various topics. Anticipated topic for April 22 is:

1. **Federal Legislative Update**
   Staff has received the attached first quarter legislative report from the County's federal advocacy firm, Waterman & Associates. The County Administrative Officer will review this report with the Board of Supervisors.

Prepared by Phillip Smith-Hanes CAO Approval [signature]

REVIEW:
Auditor ______ County Counsel ______ Human Resources ______ Other ______

TYPE OF ITEM:
______ Consent
X Departmental
______ Public Hearing
______ Other ______

*PER ORDER OF THE CHAIR *

PREVIOUS ACTION/REFERRAL:

Board Order No. ______

Meeting of: ______

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT
Upon motion of Supervisor Seconded by Supervisor

Ayes
Nays
Abstain
Absent

and carried by those members present, the Board hereby approves the recommended action contained in this Board report.

Dated: ______
By: ______
Kathy Hayes, Clerk of the Board

FINANCIAL IMPACT:

There is no financial impact to hearing the oral report. Some topics discussed may have positive or negative financial impact on the County.

OTHER AGENCY INVOLVEMENT: None.

ALTERNATIVES TO STAFF RECOMMENDATIONS: Board's discretion.

ATTACHMENTS: Waterman & Associates First Quarter Report

Waterman & Associates GOVERNMENT RELATIONS

HUMBOLDT COUNTY

WASHINGTON BRIEFS

First Quarter 2014

A number of key budgetary and fiscal matters took center stage during the first quarter of the year. For starters, Congress approved in mid-January a long-awaited fiscal year 2014 omnibus appropriations package (HR 3547; PL 113-76). Under the Act, federal government operations are funded through September 30 at the $1.012 trillion spending level established by the Ryan-Murray budget agreement. Overall, the law provides a $26 billion increase in spending compared to previous levels, or $45 billion more than required by the 2011 *Budget Control Act*.

With regard to next year's budget, the Obama administration released March 4 its spending blueprint for fiscal year 2015. While the proposal technically adheres to the Ryan-Murray deal's discretionary spending limit, the White House has proposed an additional $56 billion in supplemental spending for defense, roads and bridges, universal pre-school education, and expanded tax credits for the poor. The funding would be split evenly between defense and domestic discretionary programs and would be fully offset with a package of spending cuts and tax reforms.

It should be noted that the president's supplemental spending proposal was met with strong resistance from congressional appropriators. Senate Appropriations Committee Chairwoman Barbara Mikulski (D-MD) and her House counterpart, Representative Harold Rogers (R-KY), have indicated that their respective committees will advance fiscal year 2015 spending legislation that strictly abides by the Ryan-Murray budget caps.

In other fiscal-related developments, lawmakers cleared this past quarter legislation (S 540; PL 113-83) that suspends the public debt limit until March 15 of next year. Although it appeared as though House Republicans would seek to extract concessions from their Democratic colleagues as part of any debt-ceiling legislation, House Speaker John Boehner (R-OH) ultimately brought forth a clean extension.

Congress also approved in the first quarter a long-awaited Farm Bill reauthorization package (HR 2642; PL 113-79). The bipartisan measure, which had been held up for months due to disagreements over a number of issues ranging from farm subsidies to the Supplemental Nutrition Assistance Program (SNAP), reauthorizes for five years the nation's agriculture and nutrition assistance programs.

Among other things, the Farm Bill restores mandatory funding for rural development programs, including $150 million for the Water and Wastewater Program; $100 million for the Beginning Farmer and Rancher Development Program; $63 million for the Value-Added Producer Grant Program; and, $15 million for the Rural Microenterprise Assistance Program (RMAP).

The Congressional Budget Office (CBO) estimates that the legislation will reduce the federal deficit by roughly $16.5 billion over the next decade. Some of the savings will be achieved by eliminating the system of direct payments to farmers and replacing it with two new risk-management programs and expanding the use of crop insurance for risk mitigation.

With regard to the ongoing drought in California, there were a number of legislative and regulatory developments this past quarter. In February, President Obama and U.S. Department of Agriculture (USDA) Secretary Tom Vilsack announced that USDA would make millions of dollars of disaster assistance available to help California's farmers and ranchers who have been impacted by the drought. The agency also announced the availability of additional resources for California, including funding for conservation assistance, watershed protection initiatives, emergency water assistance grants, food banks, and summer meal sites.

On the legislative front, the House approved in early February a Republican-sponsored drought-relief package (HR 3964). The bill, which passed the lower chamber on a near-party line vote, would make changes to the *Central Valley Project Improvement Act* and repeal the San Joaquin River restoration program in an effort to boost water deliveries to the Central Valley. HR 3964 also would limit enforcement or consideration of environmental regulations under the *National Environmental Policy Act* (NEPA) and the *Endangered Species Act* (ESA).

In the upper chamber, Senator Dianne Feinstein (D-CA) has introduced her own drought-relief package (S 2016), which would boost water supplies to the Central Valley by providing federal agencies with additional operational flexibility. Under the legislation, federal actions aimed at maximizing water exports from the Delta would need to be consistent with federal and state environmental laws and regulations. It should be noted that Representative Costa has introduced a companion measure (HR 4039) to Senator Feinstein's bill.

In addition to the aforementioned bills, Representative Jared Huffman (D-CA) introduced a drought measure this past quarter. The legislation (HR 4239) is similar to the Feinstein/Costa effort, though includes several additional features, such as language that would direct the president to update the National Response Plan and the National Disaster Recovery Framework to address plans for responding to catastrophic drought. Additionally, the bill would direct the Army Corps to modernize reservoir operations and includes an authorization for a new loan fund to support regional water management projects by investing in water recycling.

Although it is unclear what a final drought-relief bill might look like, it is expected that Senators Feinstein and Barbara Boxer (D-CA), along with key House Republicans and Democrats, will attempt to reach a compromise agreement sometime in the near future.

Below is a status report on the primary issues that the Humboldt County Board of Supervisors identified as federal legislative priorities in 2014.

WATER RESOURCES

Klamath Basin Restoration Act

This past quarter, members of the Upper Basin Task Force finalized a water-sharing agreement. The accord, known as the Comprehensive Upper Basin Agreement, is designed to allocate limited water resources to the Klamath region while stabilizing agricultural, economic, and environmental interests. Furthermore, and as requested by Senator Ron Wyden (D-OR), the task force was able to develop a plan that would provide affordable and sustainable power supplies to on and off-project irrigators in the Upper Klamath River Basin.

The centerpiece of the agreement is a Water Use Program, which would increase flows to Upper Klamath Lake by 30,000 acre feet. The deal also would help restore plant and fish habitats in riparian areas. Another key element of the agreement calls for the establishment of a Tribal Economic Development Fund for the Klamath Tribes.

It should be noted that Upper Basin disputes have slowed the advancement of the broader Klamath River restoration agreements - the Klamath Basin Restoration Agreement (KBRA) and the Klamath Hydroelectric Settlement Agreement (KHSA). However, the new accord will help clear the path for the eventual advancement of legislation that would implement the KBRA and KHSA.

In addition, the task force successfully identified several non-federal sources of funding that will help reduce the estimated cost of implementing the Agreements. Whereas previous estimates had pegged federal implementation costs at roughly $1 billion, the new cost is expected to be $545 million. This would be accomplished largely by tapping into state funding from California and Oregon, through off-budget federal funds, and by seeking additional private foundation funding.

Finally, the Humboldt County Board of Supervisors sent a formal letter this past quarter to leadership within the Department of the Interior requesting funding from the Bureau of Reclamation for technical assistance related to the KBRA. The requested funding would allow Humboldt County to more effectively participate in the KBRA and related Klamath discussions.

HUMBOLDT COUNTY WATER CONTRACT WITH BUREAU OF RECLAMATION

Humboldt County has a permanent water contract with the Bureau of Reclamation for 50,000 acre-feet of water from the Trinity Reservoir. The County's water right is derived from Section 2 of the 1955 *Trinity River Act* (PL 84-386), which states that "not less than 50,000 acre-feet shall be released annually from the Trinity Reservoir and made available to Humboldt County and downstream water users." Notably, Humboldt County is the only downstream party specifically enumerated in the law.

Humboldt County remains engaged in a multi-year effort to compel Reclamation to respond to the County's inquiries regarding the administration of its water right. Although the County has signaled its intent to have the water be made available for release for the beneficial uses of fisheries on the lower Klamath and Trinity Rivers, Reclamation has not made a determination regarding how it intends to administer the contract.

It should be noted that Humboldt County has sent numerous letters to Reclamation and leaders within the Department of the Interior regarding this matter. Additionally, County officials have met with various Agency officials to discuss the water contract.

Furthermore, Humboldt County has succeeded in securing the assistance of key member of Congress on this matter. Most recently, Representative Huffman wrote to the Reclamation commissioner to express his concern that the Agency has not indicated how it intends to account for Humboldt County's statutory guarantee as part of the Bay Delta Conservation Plan (BDCP).

In his December 2013 correspondence, the congressman noted the increasingly time-sensitive nature of the County's request given the recent release of the BDCP and corresponding environmental documents. Furthermore - and in order to determine the BDCP's full impact on the Trinity River, Humboldt County, and downstream users - Representative Huffman requested the commissioner to address a number of key questions, including how the 50,000 acre-feet requirement is factored into the water budget for BDCP, separate and apart from the requirements of the Trinity River Record of Decision.

Finally, this past quarter, Reclamation received legal advice from the Solicitor's Office on implementation of the *Trinity River Act*. The advice, which is protected by the attorney-client privilege, is currently being reviewed by the commissioner's office. As Reclamation is developing a long-term plan for fish protection and flow management in the lower Klamath River, the recent guidance received from the Solicitor's Office will be reflected in Reclamation's plan.

Redwood Creek Flood Control Project

The Obama administration did not request funding for the Redwood Creek flood control project as part of its fiscal year 2015 budget submission to Congress. As a result, the project is currently ineligible for federal appropriations.

Although the project remains stalled due to a lack of financing, ongoing developments in Congress could result in the project receiving federal support. For example, pending *Water Resources Development Act* (WRDA) reauthorization legislation (HR 3080; S 601) would establish a new process for water resource project selection, which, once approved, could help jumpstart the Redwood Creek project.

Under the House measure (HR 3080), the Army Corps would be required to annually publish a notice in the *Federal Register* requesting project proposals from non-federal interests (including local flood control agencies) regarding water resource development needs. In turn, the Corps would review the submissions and provide Congress with an annual report of projects that meet specified criteria. Lawmakers would then use the information to determine authorization priorities in future water resources development legislation. Such a project selection process could present Humboldt County with an opportunity to secure federal support for Redwood Creek.

By comparison, the Senate bill (S 601) would set criteria that the Corps would have to follow in selecting projects, but would not require congressional approval. House lawmakers have expressed concerned that the Senate approach would give the Executive Branch too much decision-making authority over project selection.

The House and Senate are expected to settle on a new WRDA reauthorization package in the near future.

REAUTHORIZATION OF THE SECURE RURAL SCHOOLS ACT

This past quarter, the House Natural Resources Committee (NRC) held an oversight hearing to further investigate the Obama administration's decision to retroactively apply sequestration to fiscal year 2012 Secure Rural Schools (SRS) payments. The administration's action has raised numerous legal questions about whether states could be compelled to return federal funds that had already been obligated and whether the funds were even legally subject to sequestration. NRC Chairman Doc Hastings (R-WA) and other Republicans on the panel believe the cuts were used as a political maneuver designed to make sequestration as painful as possible.

USDA Undersecretary Robert Bonnie, who testified at the hearing on behalf of the White House, acknowledged that there was some initial confusion and disagreement about how sequestration would apply to SRS payments. Nevertheless, according to Bonnie, the USDA was legally obligated to recover a portion of SRS dollars that were paid to states in fiscal year 2012. Incidentally, some states - including California - complied with the administration's directive on sequestration and sent the funds back to the federal government; other states, however, did not. As a result, the Department may consider withholding a commensurate portion of this year's SRS payment from those states.

Following the hearing, the panel authorized Chairman Hastings to issue subpoenas to the administration for the production of documents related to the sequestration of SRS funds. In addition, Hastings sent a letter to Secretary Vilsack requesting additional information about the assertion that the Department was legally obligated to recover the sequestered fiscal year 2012 SRS payments. The committee also sent follow-up correspondence to the Secretary requesting that the Department disburse the full amount of fiscal year 2013 SRS payments and to abandon any plans to withhold any portion of it.

On the reauthorization front, the White House budget proposes a five-year renewal of the SRS program with funding through mandatory appropriations. However, it has proven difficult for key policymakers to reach a bipartisan consensus on how best to move forward with a long-term SRS bill. If the program is not renewed, county payments will return to a revenue-based system and would likely be significantly lower than they have been in recent years.

MAP-21 Reauthorization

Transportation committees in the House and Senate held a series of hearings this past quarter to examine key issues surrounding the impending reauthorization of the nation's highway and transit programs. The current surface transportation law (MAP-21) expires on September 30.

This year, lawmakers are again faced with the politically formidable challenge of identifying a new source of revenue to pay for the nation's significant infrastructure needs. The purchasing power of the federal gasoline tax - once a sufficient source of revenue for transportation program financing - has been eroded due to inflation. Moreover, the advent of more fuel-efficient cars has translated into fewer trips to the pump and decreased gas tax receipts flowing into the Highway Trust Fund (HTF).

According to numbers released this past quarter by CBO, a new six-year surface transportation bill would require $100 billion in additional revenue - such as new taxes or transfers from the Treasury's General Fund - just to maintain current transportation spending levels. Moreover, CBO has reported that it is possible that the HTF will run out of funding before this fall's expiration of MAP-21.

For his part, House Transportation & Infrastructure Committee Chairman Bill Shuster (R-PA) has indicated that he opposes an increase in the federal gasoline tax; instead, Shuster favors a Vehicle-Miles-Traveled (VMT) fee. In the Senate, Environment & Public Works Committee Chairwoman Barbara Boxer (D-CA) has stated that she is interested in exploring the possibility of instituting a wholesale tax on oil to pay for increased transportation spending.

In terms of the timing for potential legislative action on a new transportation bill, Chairman Shuster has signaled his intention to move a multi-year reauthorization package through committee in late spring or summer. Shuster hopes to have a bill on the floor of the House before the August recess. In the upper chamber, Chairwoman Boxer's committee will likely consider a five or six-year transportation bill in April.

In other developments, President Obama proposed this past quarter a four-year, $302 billion surface transportation authorization package. The administration's proposal would supplement the motor fuels and excise taxes that currently support the HTF with $150 billion from corporate tax changes.

For his part, House Ways and Means Committee Chairman Dave Camp (R-MI) recently released his own tax overhaul plan, which would generate $126.5 billion in new revenue for transportation projects from tax changes. Along with current trust fund revenue, Camp said his proposal would generate enough revenue to fund federal surface transportation programs at current levels for eight years. It should be noted that the Ways and Means Committee has primary jurisdiction over the HTF portion of transportation reauthorization.

Remote Sales Tax

The House Judiciary Committee held a hearing during the first quarter of the year entitled *Exploring Alternative Solutions on the Internet Sales Tax Issue*. As part of his opening statement, the chairman of the committee, Representative Bob Goodlatte (R-VA), described what he believes are the fundamental flaws in a Senate-passed remote sales tax bill (S 743).

For starters, Goodlatte argued that there is a serious perception issue relative to the intent of the legislation. In fact, recent polling suggests that a majority of Americans still view the bill as Congress taxing the Internet, and as a result, oppose such an effort. In addition, Goodlatte raised concerns about the compliance burden that the Senate legislation would place on small online retailers, as well as the risk of exposing these same retailers to multiple state audits.

Although the House has yet to act on its own remote sales tax measure, Chairman Goodlatte has released a set of principles that will guide his committee's approach to drafting a bill. The committee has received a number of ideas from stakeholders, with the recent hearing serving as an opportunity to explore several of them in detail.

One of the new proposals - offered by former California congressman and tax policy advisor to NetChoice, Chris Cox - would require online retailers, regardless of size, to use the tax rates and rules of their home states. The tax would be remitted to the purchaser's home state, as long as both states cooperated in the arrangement. Advocates of this origin-based proposal believe this would be much simpler to comply with than the provisions of the S 743. On the other hand, critics warn that it could drive online retailers to relocate to states that have no sales taxes.

Another proposal would simply ban transactions that do not meet the sales tax laws of the state to which the product is shipped. Meanwhile, others touted the Streamlined Sales Tax Project, an effort to makes sales taxes simpler and more uniform.

Property Assessed Clean Energy Program

In the first quarter of 2014, Representatives Mike Thompson (D-CA), Peter King (R-NY), and Sean Patrick Maloney (D-NY) introduced legislation – the *PACE Assessment Protection Act of 2014* (HR 4285) – that would help revive stalled residential PACE programs nationwide. The bill would direct the Federal Housing Finance Agency (FHFA) to rescind policy guidance that has severely hampered PACE initiatives.

FHFA's 2011 directive objects to local governments holding the first lien on residential PACE homes, calling it a significant risk to Fannie Mae and Freddie Mac. To address the agency's concerns, HR 4285 would establish important national program standards to limit any and all financial risk to the lenders.

In a related development, the state of California recently finalized emergency regulations to implement a PACE Loss Reserve Fund. The state-backed fund would ensure that PACE assessments are paid off in the event of a mortgage default, which would effectively eliminate any financial risk to Fannie Mae, Freddie Mac, or any other mortgage lender. Among other things, the regulations would require PACE programs enrolling in the reserve fund to meet basic structural criteria and comply with certain underwriting standards, similar in scope to the language included in the *PACE Assessment Protection Act*.

HEALTH AND HUMAN SERVICES ISSUES

Supplemental Nutrition Assistance Program

In February, President Obama signed the new Farm Bill into law. The measure includes an $8.6 billion cut to SNAP (CalFresh, as it is known in California) over ten years. By comparison, the Senate-passed Farm Bill (S 954) would have cut SNAP by roughly $4 billion, while the House measure (HR 2642) proposed a nearly $40 billion reduction.

SNAP savings will be achieved by restricting states' use of a nominal Low-Income Home Energy Assistance Program (LIHEAP) payment, which triggers a larger SNAP benefit via the standard utility allowance deduction. To date, 16 states, including California, have employed this option by providing a LIHEAP payment as low as $1 annually to trigger higher SNAP benefits.

Under the new law, an individual could only get increased SNAP benefits if they receive a minimum of $20 in LIHEAP benefits annually. Initial estimates from the State of California indicate that as many as 200,000 households could see an average reduction in SNAP benefits of about 13 percent, or $43 per month.

The law also bans SNAP eligibility for violent felons, even those who have already served their prison terms. The final bill, however, only prohibits benefits if the felon violates the terms of his/her probation or other sentencing conditions.

TANF Reauthorization

The Temporary Assistance for Needy Families (TANF) program has continued to operate on a series of short-term extensions. The most recent extension, which was included in the fiscal year 2014 omnibus appropriations law, provides continuing authority for TANF through September 30, 2014.

With regard to the Obama administration's fiscal year 2015 budget, the White House has pledged to work with Congress to strengthen the TANF program's effectiveness by using performance indicators and ensuring that states have sufficient flexibility to engage recipients in the most effective activities to promote success in the workforce.

Additionally, the administration is proposing to re-direct the TANF Contingency Fund - which is currently targeted to states with high unemployment - into a $602 million 'Pathways to Jobs' initiative. The proposal is similar to the Emergency Contingency Fund, which was used successfully by California's counties under the *American Recovery and Reinvestment Act* to provide individuals with subsidized employment opportunities. It should be noted that such a proposal could be considered during a TANF reauthorization debate.

We hope this information is useful to Humboldt County officials. Please do not hesitate to contact our office if you have any questions or need additional information.