

To: The Honorable Mark Jensen
The Petersburg Borough Assembly
Stephen Giesbrecht, Borough Manager

From: Brad Gilman & Sebastian O'Kelly

Re: Washington Update

Date: December 14, 2017

1. Federal Budget & Appropriations: Leaders of both parties and the Trump Administration have been holding budget negotiations for both FY 2018 defense and non-defense appropriations. Current law sets FY 2018 top-line defense appropriations at \$549 billion and non-defense appropriations at \$519 billion. Republican defense hawks have been pressing to boost defense spending to \$634 billion, while Congressional Democrats have countered that every dollar increase in defense spending must be matched on the non-defense side. The latest proposal from the Congressional Republican leadership would raise defense spending to \$603 billion and non-defense spending to \$553 billion. The Democratic leadership has countered with an offer that would put defense spending at \$603 billion and non-defense spending at \$573 billion. Democrats are also pressing for visa extensions, due to expire in March, for immigrant “Dreamers” (children of illegal aliens who have a long residence in the U.S.) in return for increased investment in border security. If a funding agreement is reached, it would be the greatest increase in Federal appropriations for nearly a decade. In the interim, the Federal government is operating under a short-term Continuing Resolution (CR) through Dec. 22nd. It is unlikely that we will see an Omnibus Appropriations Bill developed by then given the short time frame. There will likely be another CR passed that would fund the Federal government through January 19, 2018, with an Omnibus Appropriations Bill considered by that time.

2. Status of Federal Priorities: The following is a quick update on a number of Petersburg’s federal priorities—

- **Capital Projects:** Infrastructure is an issue that will be pushed into next year (see discussion under section 3).
- **Homeporting Coast Guard Vessels:** Senator Sullivan chaired a hearing on Coast Guard readiness in November. The Senator told Coast Guard Commandant Zukunft that more Fast Response Cutters should be deployed in Alaska than the current six craft on the procurement schedule. The Senator requested and received a commitment from the Commandant to be kept informed on Coast Guard asset and vessel planning in Alaska prior to the Coast Guard finalizing any decisions. We expect a decision on the FRC homeport issue within the next month.
- **Pink Salmon Disaster Assistance:** The FY 2018 House Commerce-Justice-Science Appropriations Bill provides \$20 million for fisheries disasters declared by the Secretary of Commerce. This amount encompasses the 2016 pink salmon disaster along with 8

other declared disasters around the Nation. The Senate bill includes no funding. During the Senate Appropriations markup, Senator Murkowski proposed an amendment along with Senators Merkley (D-OR) and Feinstein (D-CA) to provide \$150 million to fund all the declared fishery disasters, but withdrew the amendment when Subcommittee Chairman Richard Shelby (R-AL) promised to find a way to fund the disasters later in the legislative process. We've been told Senator Murkowski continues to press for funding to be included in the final FY '18 Omnibus appropriation bill.

- **PILT:** For FY 2018, the House and Senate Appropriations Committees fully fund the program. PILT is likely to be included in a final Omnibus Appropriations Bill in January.
- **Secure Rural Schools (SRS):** We have been informed that Senator Hatch, Chairman of the Senate Finance Committee, has found an "offset" to pay for a two year extension of SRS funding. The extension could be included in either an Omnibus Appropriations Bill or as part of a tax extenders package dealing mostly with energy tax breaks that would be considered separately from the current Tax Reform bill. In December, Senator Murkowski wrote the Senate leadership urging continuation of the SRS program.
- **South Harbor Dredging Project:** Both the House and Senate Energy & Water Appropriations Bills continue funding for the Corps' Section 107 Small Navigation Projects Program for FY 2018, overriding the Trump Administration's budget request to zero out the program.
- **Essential Air Service (EAS):** Funding has been included for EAS in both the House and Senate Transportation-Housing-Urban Development Appropriations Bills for FY 2018 but will still need final funding in an Omnibus Appropriations Bill.

3. Infrastructure Investment: Development of the "infrastructure package", a top priority and campaign promise of the Trump Administration, has been put aside while the issues of healthcare and tax reform have been debated. There have been recent meetings with top Administration and Congressional transportation officials about developing a proposal for release in early 2018. Issues of how much of a focus it should have on increased spending through traditional Federal-State transportation formula programs, versus increased economic and tax incentives for public-private transportation partnerships, have not been settled. Other issues include the "pay for" to cover the costs of the legislation, including whether there should be an increase in the Federal gas tax. Rural lawmakers led by Senator Barasso (R-WY), Chairman of the Senate Environment & Public Works Committee, have noted that the public-private model may not work well for their States and will be pushing for set-asides for rural transportation projects.

4. ANWR: The Senate version of the Tax Reform bill includes a section authored by Senator Murkowski to initiate oil and gas development in the "1002 Coastal Plain" area of Alaska National Wildlife Refuge. The legislation would require the Secretary to hold two lease sales over a seven-year period following enactment and to offer at least 400,000 acres of land in ANWR for lease at each sale. The bill limits the footprint for actual drilling to 2,000 acres. The

legislation would establish a 16.67 percent royalty on oil and gas produced in ANWR. Under current law, the federal government charges royalties of 12.5 percent for oil and gas produced onshore and 18.75 percent for oil and gas produced in the Outer Continental Shelf). The State of Alaska would receive one-half of the gross proceeds generated from the leasing program. The Congressional Budget Office estimates that the sales will raise \$2.2 billion in revenues over a ten year period, with half that amount going to the State. We anticipate that the final Tax Reform bill will include the ANWR 1002 area opening.

5. Tax Reform: The Senate passed its Tax Reform bill by a narrow 51-49 vote, with all Republicans voting in favor except Senator Bob Corker (R-TN). The bill is now in conference with the House and in the final stages of negotiation. It is expected that a Conference Report will be completed this week, with a final bill voted on before the start of the holiday break.

The two most significant issues for state and local governments are narrowing of the deduction for state and local taxes and elimination of the interest deduction for “private activity” municipal bond investments. The latest news is that a compromise would narrow the current unlimited deduction for state and local taxes to a deduction of up to \$10,000 for property taxes, state taxes, and local taxes. Republicans from higher tax states such as California, New York and New Jersey are pressing to fully reinstate the deduction. Given the substantial revenues it raises, full reinstatement is unlikely. The elimination of the deduction for “private activity” municipal bond investments was included in the House bill. These are bonds that are issued by localities tied to revenue streams from specific projects. They do not include general obligation bonds. Both the National Association of Counties and Wall Street investment houses that specialize in municipal bond financing are pressing the conferees to reject the House provision.

The special election of Senator Doug Jones (D-AL) to fill the open seat vacated by Jeff Sessions’ (R-AL) departure to become Attorney General should not affect the final outcome of the bill as his election is not expected to be certified by the State of Alabama until after Christmas.

6. Waters of the U.S. Rule: The Obama Administration promulgated joint regulations between the EPA and Army Corps amending the definition of “Waters of the United States” under the Clean Water Act. Local governmental entities and industries opposed the regulations, arguing that the rule dramatically expanded the scope of the Federal Government’s CWA authority. Implementation of the “WOTUS” Rule was put on hold during pendency of Federal litigation. In February, President Trump issued an executive order instructing the EPA to begin the process of repealing and replacing the WOTUS Rule. In October, the EPA established a regulatory docket to revise the Rule.

7. Coast Guard Reauthorization Act: As of the date of this report, the legislation has not made it off the Senate floor and its consideration will likely be pushed into 2018. It includes the following —

- A prohibition on the use of a mandatory program for the commercial fishing industry’s Alternative Safety Compliance Program. This would leave the Voluntary Safety Initiatives and Good Marine Practices guidelines in place. This provision is in response

to the Coast Guard Commandant's comments that a mandatory program was still under consideration.

- A permanent extension of the moratorium on EPA's NPDES incidental discharge permit requirements for all commercial fishing vessels regardless of size (including floating processors and tenders), and all commercial workboats under 79 ft. The current moratorium is set to expire on December 19, 2017. The timing of any directive by the Coast Guard to enforce the EPA rule is unclear.
- Federal pre-emption of state management of ballast water discharges in favor of a uniform national rule administered by the Coast Guard. The U.S. maritime industry has been pressing for a uniform national standard governing ballast water discharges. The individual states on the West Coast and Great Lakes have insisted upon preserving their own regulatory regimes to prevent the spread of aquatic invasive species. This dispute has been what's holding up passage of the overall bill.
- Reduction in a number of regulatory burdens imposed on the commercial fishing industry.
- Requirement that the Coast Guard position its assets and cutters in a manner which fully implements the agency's Arctic Strategy.
- Requirement for increased air surveillance in monitoring illegal, unreported, and unregulated fishing (primarily fishing activities along the edge of the U.S. 200 mile limit).
- Additional procurement flexibility for the Coast Guard to utilize Alaska's shipyards for maintaining Coast Guard assets stationed in Alaska.

8. Fisheries Issues

- **Magnuson-Stevens Act (MSA) Reauthorization:** MSA reauthorization efforts have advanced this fall. The House Natural Resources Committee has marked up Rep. Young's bill -- HR 200 -- "Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act." The Senate Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard, chaired by Senator Sullivan, held further hearings in November. His staff continues to work on a draft bill. Major issues to be considered and debated include: rebuilding flexibility for overfished species under certain conditions; greater use of electronic monitoring, logbooks and other new technologies that can improve fisheries science and management; improved data collection in marine recreational fisheries; increased focus on predator/prey dynamics, forage species, and essential fish habitat protection; allowance for exemption from or adjustment of annual catch limits based on economic, species biology or ecosystem circumstances; clarifying when fish populations are low due to overfishing versus non-fishing factors such as changes in environmental conditions ("depleted"); delegating Federal management of red snapper to the Gulf of Mexico States; greater emphasis on cooperative research and data

collection with the States and commercial and recreational fishing industries; greater consideration of subsistence fishing in the management process; and increased transparency of the operations of the Regional Fishery Management Councils.

- **British Columbia Transboundary Mining Issues:** In a November letter, the Alaska Delegation continued to press the State Department to play a more assertive role in addressing threats to Southeast Alaska fisheries posed by the expansion of mining in British Columbia. The letter reiterates the need for joint water quality testing, government to government consultation with local tribes, and engagement of the U.S.-Canada International Joint Commission to oversee mining operation compliance with applicable environmental protections.
- **Steller Sea Lion Population Review:** NOAA has announced it is undertaking a review of the most recent survey data for the endangered Western population of Steller Sea Lions. The data will be used to determine if the population warrants delisting from the Endangered Species Act. The agency recently delisted the Eastern population which largely inhabits the Southeast Alaska, the Pacific Northwest, and Canada. The ESA listing of the Western population has resulted in large fishing closures and adjustments in fishing seasons for groundfish and salmon in the Bering Sea/Aleutian Islands and the Gulf of Alaska.
- **Marine Mammal Protection Act (MMPA) Reauthorization:** Senator Sullivan has expressed an interest in reauthorizing the MMPA and is soliciting suggestions. The effort is likely to wait until after the MSA debate has been completed. This bill would be a logical candidate to pursue changes in southeast sea otter management.

9. Miscellaneous

- **Southeast Health Consortium Land Transfer:** The Senate has now passed legislation to authorize a 19 acre land transfer to the Southeast Alaska Regional Health Consortium to enable expansion of its campus in Sitka. The expansion would provide land for new primary and acute care facility space as well as staff housing. Senator Murkowski and Representative Young have sponsored the legislation in their respective bodies. Senator Sullivan is a cosponsor of the Senate bill.
- **Indian Training and Education Legislation:** The House and Senate have passed legislation authored by Rep. Young to make permanent the 477 Program. The program allows Native American tribes to consolidate budgeting and reporting of funds received from Federal agencies for employment, higher education, welfare-to-work and job training initiatives. The President is expected to sign the bill.
- **Community Health Center Funding:** The House has passed legislation to extend the mandatory funding portion (about 70 percent of total program funding) of the Dept. of Health & Human Service's Community Health Center Program. This program funds the work of community health centers and clinics through the U.S. and has particular importance in rural Alaska where no hospitals are present. Funding for the program

expired September 30th and must be extended legislatively. All three Members of the Alaska Delegation strongly support the program and have been urging the Congressional leadership to find a way to include extension of the program in must-pass legislation before Congress adjourns for the year.

- **ANSCA Tax Provision:** The Senate Tax Reform Bill includes a provision sponsored by Senator Murkowski that exempts from gross income of Alaska Native and Village Corporations any payments received from Settlement Trusts. The provision also allows tax deductions to be claimed by ANCs for contributions (including property) they make to a settlement trust.
- **Polar Ice Breaker:** The FY 2018 National Defense Authorization Act (NDAA) authorizes funding for construction of one new Polar-Class heavy-class ice breaker as a joint project between the Navy and Coast Guard. The bill has been enacted.
- **Arctic Security Capability and Resources Gap:** The NDAA includes a requirement for the Department of Defense to complete a report to Congress on efforts to address Arctic security capability and resource gaps, along with investment plans for military infrastructure needed to protect national security assets and activities in the Arctic.
- **EPA Region 10 Administrator:** The President has appointed former Unalaska City Manager and Alaska DCED Commissioner Chris Hladick as EPA's new Region 10 Administrator.