



AMERICAN COUNCIL OF ENGINEERING COMPANIES  
**Environment & Energy Committee**

Winter Meeting  
Washington, DC  
March 9 & 10, 2009  
Meeting Summary

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*The following is a summary of the presentations and discussions that took place during the Winter 2009 Meeting of the Environment & Energy Committee.*

### **Presentations**

#### **Federal Update**

*Diane Shea, Environmental & Energy Programs Director, ACEC*

Ms Shea provided an overview of the economic stimulus package, appropriations for FY '09 and '10, and upcoming legislation on key environmental and energy topics.

Regarding the economic stimulus package (titled the "American Recovery and Reinvestment Act of 2009, or "ARRA"), she provided several handouts of program distributions for the Clean Water and Safe Drinking Water State Revolving Funds, the Energy Conservation and Efficiency Block Grants, and the Energy State Program funds, as well as guidance documents from EPA and DOE. These materials and several more, are now on the ACEC Economic Stimulus Recovery Center website, at: <http://www.acec.org/esrc.cfm>.

She also provided information about funding for EPA, DOE and other programs from the FY '09 appropriations bill, and preliminary information from the President's budget summary request for FY '10. More information about the President's request will be available when the White House releases the complete document in late April. Finally, she reviewed the status of the Water Infrastructure Investment Act, reauthorizing the Clean Water SRF. Up-to-date information on the legislation is provided in each week's Government Affairs Update which is emailed to all members of the Committee.

Since legislative speakers from the House and Senate Energy Committees were unable to attend the meeting, Ms. Shea reviewed in detail the status of legislation currently being drafted. The Senate Energy Committee is working on a new energy bill that will address additional building standards, transmission line siting, increased incentives for renewable energy and potentially a mandatory renewable energy electricity standard for utilities. In the House, the Energy and Commerce Committee is drafting a joint

energy/climate change bill that will be marked up in subcommittee in late April, and passed by the full committee in mid-to-late May. The bill will reflect the President's campaign outline of a cap-and-trade program, with utilities, refineries, and large manufacturing operations subject to declining limits for emitting greenhouse gases. It will also include a renewable energy electricity standard, similar to the Senate proposal.

### **Water Infrastructure Legislation: Revolving Loan Funds**

*Ryan Seiger, Staff Director, Water Resources and Environment Subcommittee, House Transportation and Infrastructure Committee*

Mr. Seiger outlined the provisions of HR 1272 that is scheduled for a floor vote this week and is expected to pass. Several amendments are expected to be added, primarily expanding the use of SRF and grant funding. In addition, five other related bills which passed the House last year were included in the overall bill. Of particular interest is the sewer overflow control grants section, which authorizes \$500 million annually to allocate to states, which in turn are to issue grants to municipalities for sewer overflow projects.

Mr. Seiger also discussed Rep. Oberstar's wetlands bill which has been opposed by most of the building industry and agriculture as overbroad. He also predicted that there would not be a WRDA 2009 bill this year. He noted that the driver of a new bill is usually the number of Chief's Reports that describe needed studies, and currently there are not a sufficient number of reports in the pipeline. He said that the committee will likely begin writing a bill early in 2010.

Committee members inquired about including a levee risk-based assessment system, the communication of risk to local governments and residents, and liability protection for engineers who certify levees. Mr. Seiger said that no action on those topics is likely to begin until the White House completes its review of the Levee Safety Commission report and recommendations. There possibly could be a free-standing levee safety bill to address many of the recommendations, or if such a strategy is not considered wise, it could be wrapped into the next WRDA bill. He was particularly interested in having such a levee bill include a series of incentives and disincentives for local government planning to reduce development in floodplains.

### **Implementation of Stimulus Funding – State Revolving Funds**

*James A. Hanlon, Director, EPA Office of Wastewater Management, Office of Water*

Jim Hanlon heads up the office that is responsible for overseeing the distribution of the capitalization grants to states for the Clean Water State Revolving Fund. He is also part of the EPA team that is implementing the allocation of economic stimulus funding to states for water and sewer projects, which in turn are required to make loans and grants (or grant equivalents) to localities on the states priority list.

Mr. Hanlon noted that there are many more "strings" attached if states use the stimulus money for pure grants to municipalities. States can provide negative interest loans or

principal forgiveness and use the requirements of the loan program, along with any specific guidance provided by EPA.

The regional EPA offices are actually distributing the money, and if a state is not prepared to take its entire allocation, it can accept a portion at this time, and the remainder later. The state may also allow the refinancing of a project using stimulus funding if the project was in process at the time the law passed.

ARRA requires a 20% soft set-aside for “green infrastructure” projects, and the guidance issued by Mr. Hanlon’s office describes what such projects might include. If a state has eligible projects, it can proceed to obtain funding from the program, but if not, it can solicit projects that meet the criteria. If there are an insufficient number of eligible projects, the state can certify that fact to the regional office and use the money for other projects.

The committee discussed with Mr. Hanlon the “Buy American” provisions of the ARRA and the difficulty in obtaining U.S.-made equipment for sewer projects, particularly membranes and some types of pumps. In response to a question, he told the group that the provision in the bill that exempt from the provisions those agencies that are parties to international trade agreements does not apply to local governments, according to the Office of Trade Representative.

He also said that the agency is working with the Office of Management and Budget to develop some categorical waivers for particular types of equipment, and encouraged ACEC members to supply information about parts or equipment that cannot be found in the U.S. and have no U.S. substitutes. The categorical waivers currently under consideration are membrane filters, Chinese bolts, and manhole covers and lines. He also said that to test the difficulty of applying Buy American requirements, EPA will be choosing 10 shovel-ready projects and will have the contractor meet with the municipality to go through the designs. The agency to seek to answer the question of whether the projects are buildable with Buy America restrictions, does it need to be re-designed, and can it be built in the time allowed under the ARRA. EPA will use the information obtained in their negotiations with OMB.

Mr. Hanlon directed ACEC members to the [Guidance for Award of Recovery Act Funding to State Revolving Funds \(PDF\)](#), for more information, and to watch for OMB’s and EPA’s interim guidance when it is completed. EPA will also be issuing a “frequently asked questions” page on the recovery webpage. He also said that he would be participating in a future ACEC webinar on the stimulus funding for water and sewer projects.

### **Senate Environment & Public Works (EPW) Committee Issues for 2009**

*Jason Albritton, Professional Staff Member, Senate EPW Committee*

Mr. Albritton is currently working on the Senate version of the water/wastewater SRF reauthorization bill that the Committee will consider. He noted that the bill, unlike the

House version, will include a reauthorization of the Drinking Water SRF. It will also attempt to revise the allocation formula for the Clean Water SRF to the states – an issue that is always contentious. He expects that the Senate bill will likely be marked up in committee by Memorial Day.

He also noted that at the moment, Buy American provisions are not in the Senate version of the bill, although that may change. He also suggested that SRF funds could be made available in the form of negative interest loans or loans with the principal forgiven, but only for disadvantaged communities.

Regarding a WRDA bill, he said that the committee will begin preliminary work on a bill this summer, and likely hold hearing this fall. It is quite likely that committee action will take place next year rather than 2009.

### **Implementation of Army Corps of Engineers Stimulus Funding**

*Bruce R. Ware IV, Engineering and Construction Team, USACE Headquarters*

Mr. Ware described the ARRA funding for the Corps of Engineers' programs, including the military programs. He noted that the information was very preliminary and that he was in the process of seeking more agency procurement and contract officers to manage the newly-funded projects. A list of high-priority projects was being developed and should be released in a few weeks.

He also noted that USACE, as the Department of Defense's construction agent, is working closely with DoD, Army, and Air Force program managers to refine project lists and timelines for project awards and construction schedules. USACE anticipates awarding contracts for a variety of building projects.

### **Committee Business**

Roundtable Discussion – Committee Directions

Mike Cline led the committee in a discussion of the committee's advocacy and education objectives. It is generally expected at ACEC that Government Affairs committee have a primary role is to advocate on the federal level for environmental and energy priorities. The committee also believes that it has an important role in educating ACEC member firms about sustainability issues.

#### Advocacy

Advocacy priorities include the passage of a climate change bill, but the committee felt that it should focus on climate change issues that are of particular importance to engineering firms that expect to develop new business opportunities from the legislation. One of those issues could be verifying carbon emissions and offsets, including baseline emission inventories. Diane was asked to do some research in determining if this is an area that has potential, and if legislation might be amended to require that standards and

reports be prepared by professional engineering firms to verify specific aspects of the program.

The other climate change issue is adaptation – assuring that a climate change bill provides financial assistance for states, local governments, and federal agencies to redesign, or harden or move their infrastructure to adjust to rising temperatures and changing weather patterns.

Another advocacy priority is appropriations funding for programs that support engineering work. It was noted that many committee members have expertise on a variety of issues and could be utilized in Capitol Hill hearings as witnesses. Prospective witnesses would need to understand that ACEC would draft preliminary testimony for the witness to deliver and work with the witness to incorporate relevant information about the firm's work. Witnesses would not be reimbursed by ACEC to travel to Washington, D.C.

### Education

The Committee also wants to help educate ACEC firms about issues that the committee is particularly knowledgeable about. A few items were suggested, including one or more sessions at the ACEC Fall Conference in October and/or the following Annual Convention in DC in 2010.

Some topics could include a panel on Business Opportunities in Emerging Markets, focusing on renewable energy, energy efficiency, and sustainability; a town-hall-type meeting on the pros and cons of climate change cap-and-trade legislation; and/or a presentation on the Indiana SRF program that provides incentives for projects that incorporate green products, practices, and infrastructure into water and sewer projects. There will be more discussion about this at the Annual Convention in DC in April.

### Discussion with ACEC President Dave Raymond

Dave Raymond was invited to discuss with the committee some ideas on how the committee could contribute to ACEC and be relevant to the organization's mission. Dave encouraged the members to focus on specific proposals that the Council should be urged to support, keeping in mind that most of the membership of ACEC is involved in standard engineering work. Regarding the climate change bill, Dave suggested that

Based on the committee's discussion with ACEC President Dave Raymond, another issue that the committee will be exploring will be the development of a process for certifying "horizontal" green infrastructure, particularly in the water and wastewater sector. Because there is no common definition of "green" when discussing water and sewer projects, and given that setting aside a specific portion of funding for green infrastructure is likely to be a feature in future legislation, it was suggested that ACEC look into helping to define the term. It might also be possible to create a certification process, possibly similar to LEED for buildings.

We don't know if EPA might be interested in our efforts, but Diane will try to get Jim Hanlon's views on the issue. A task force, headed up by Lauren Evans, will explore the topic and develop a framework for our approach.

### **Next Meeting**

The Committee proposed that the next meeting take place in early August at Devil's Thumb Resort in Colorado or Sundance, Utah. Diane was asked to work with the ACEC meeting planner to research the options and report back on availability and costs.