



**TO:** STEVE SMITH  
TOPSAIL ISLAND SHORELINE PROTECTION COMMISSION

**FROM:** MIKE McINTYRE

**SUBJECT:** JUNE MONTHLY LEGISLATIVE UPDATE

**DATE:** JUNE 22, 2017

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## MONTHLY LEGISLATIVE UPDATE

### **FY 2018 Appropriations**

With FY 2017 appropriations complete, the House and Senate Appropriations Committees are now starting work on FY 2018 appropriations, despite not yet having a comprehensive FY 2018 budget resolution. House Republicans have expressed their desire to move directly to an omnibus appropriations bill with the intent to complete work prior to the August recess. However, proponents of the plan admit this is a lofty goal given that the House is only in session six weeks before the August recess. Even if the House were able to complete its work on appropriations by the recess, the Senate still has its own bills to complete, after which time both chambers will need to commence negotiations to resolve differences between their respective bills. Therefore, it is still unlikely that Congress will be able to complete work on FY 2018 appropriations by October 1, the beginning of the next fiscal year.

### **National Flood Insurance Program Reauthorization**

Activity in Congress has picked up with regards to flood issues as the National Flood Insurance Program (“NFIP”) reauthorization deadline of September 30 nears. In the House, the House Financial Services Committee released [six draft NFIP reauthorization bills](#) on May 25, all of which are continually being changed by the Committee. Parts of these draft bills have been formally introduced as legislation ([H.R. 2868](#), [H.R. 2875](#), and [H.R. 2874](#)); however, it is unclear—even to the committee—which bills will end up being seriously considered by the Committee during future hearings and markup. What is clear is the partisan divide that exists on several major issues areas, including mitigation, affordability and premium rates. Ranking Member of the Committee Maxine Waters (D-CA) said that the package of bills needs significant work in these areas or else there will be “irreparable damage” to policyholders. Chairman of the Committee Jeb Hensarling (R-TX) said the bills move the NFIP towards a more fiscally sound state, which is in the best interest of taxpayers and future generations. Despite these differing opinions, there are some areas of mutual agreement, such as support for a more robust private flood insurance market and more local government involvement in mapping.

In the Senate, two major bipartisan bills have been introduced. On June 7, Senators Kristen Gillibrand (D-NY), Bill Cassidy (R-LA) and Shelley Moore Capito (R-WV) introduced [S. 1313](#), the “Flood Insurance Affordability and Sustainability Act;” a 10-year reauthorization of the NFIP. On June 13, Senators Bob Menendez (D-NJ) John Kennedy (R-LA), Chris Van Hollen (D-MD), Marco Rubio (R-FL), Elizabeth Warren (D-MA), and Thad Cochran (R-MS) introduced the “Sustainable, Affordable, Fair and Efficient National Flood Insurance Program Reauthorization Act;” ([SAFE NFIP Act](#)) a six-year reauthorization of the NFIP. The SAFE NFIP Act will likely be the bill that moves in the Senate because several cosponsors are on the Senate Banking, Housing and Urban Affairs Committee, which is the committee of

jurisdiction. Both Senate bills aim to address affordability issues, mitigation, mapping, and claims process and consumer protection reforms. However, one big difference in that S. 1313 addresses the private flood insurance market (although it does not go as far as the House bill does in opening up the private market) and the SAFE NFIP Act does not.

We will be closely tracking the NFIP discussion as the situation progresses. Once it is clear which bills will be at the forefront of discussions in the House and Senate, we will provide TISPC with a more in-depth review of the provisions included in these bills.

## UPDATE ON TISPC FEDERAL LOBBYING PRIORITIES

The current status of and/or the strategy to address each item is outlined below:

### **1. North Topsail Beach – Continue to facilitate changes to the CRBA maps**

We discussed this issue with the offices of Senator Richard Burr (R-NC), Senator Thom Tillis (R-NC) and Representative Walter Jones (R-NC) during meetings in Washington on **June 13**. Senator Tillis' office assured us they are taking the necessary steps to review the draft legislation, and committed to formally introducing legislation sometime in the next two months, provided no major issues arise. Senator Burr's office has experienced some staff changes in the last couple of months but Senator Tillis' office has taken the lead on the legislation as new staff for Senator Burr work to become familiar with the issue.

We will continue to work with Senators Burr and Tillis to work through any issues that may arise as the legislation is evaluated by the Senate Office of the Legislative Counsel and other relevant personnel.

### **2. Topsail Beach – Obtain waivers for use of sand from inlet CRBA area for beach nourishment**

In mid-May, we discussed this issue with the U.S. Fish and Wildlife Service's (Service) Southeast and Northeast Region Coastal Barrier Resources Act (CBRA) Coordinator, Cynthia Bohn. Ms. Bohn provided us with two solicitor's opinions explaining how the Service interprets CBRA with regards to sourcing sand for beach renourishment within the Coastal Barrier Resources System (CBRS). The solicitor's opinions confirmed our earlier discussion with U.S. Army Corps of Engineers (Corps) personnel regarding this issue and the Service's unwillingness to change its interpretation of CBRA to allow the Corps to source sand from within a CBRS unit for use outside of a CBRS unit for the purpose of beach renourishment.

**Since this matter cannot be resolved administratively, we drafted legislative language and presented this language to the offices of Senator Burr, Senator Tillis, Representative Jones and Representative David Rouzer (R-NC) during our meetings in Washington on June 13 for congressional action.** All the congressional offices responded positively to our request. They plan to independently review the solicitor's opinions and run the draft language by necessary committee—and possibly Corps—staff to ensure the language effectively resolves the issue for the **Topsail Beach project and all the other projects across the country** that are affected by this same issue.

We will continue to be in contact with your congressional delegation on this issue and will update TISPC as the situation progresses.

*[For your reference, attached are copies of the solicitor's opinions we received from the Service.]*

### **3. Island Wide – Obtain federal funding for approved federal beach nourishment projects (Surf City/North Topsail Beach & Topsail Beach).**

We discussed both projects with the Corps, staff from the Senate Appropriations Committee Subcommittee on Energy and Water, and your congressional delegation during our meetings in Washington on June 13.

#### **Corps Meeting**

During our meeting with the Corps, staff again expressed their support for both projects and assured us that the projects continue to be technical priorities for the Corps because the projects have high benefit-to-cost ratios (BCRs). In fact, the BCRs of the Topsail Island projects are higher than the BCRs of most projects chosen for inclusion in the FY 2017 Work Plan. Staff was uncertain as to why other projects were chosen instead of the Topsail Island projects but staff did state that other factors are relevant when the Office of Management and Budget (OMB) makes its calculations, although, those other factors are not clear to the Corps. From the Corps' perspective, an important consideration is that Congress only authorizes a limited number of new construction starts every fiscal year, and an even more limited number of those new starts are dedicated to the flood and storm damage reduction account (which is the account the Topsail Island projects are under). For example, in FY 2017, six new constructions starts were authorized, only one of which was for flood and storm damage reduction. This puts significant pressure on the Corps to choose among a large array of flood risk reduction projects ready for funding in the flood and storm damage reduction account, of which beach renourishment projects are only a part.

The Corps was also appreciative of the letter from the Towns regarding their readiness to proceed to construction. Staff said this kind of assurance is important to the Corps and is helpful in their considerations for the FY 2018 Work Plan. This letter, and the work the Towns are doing with the Wilmington District office to prepare the PPAs, makes a difference to the Corps when they are choosing projects for inclusion in the Work Plan. **Staff said that the Towns have done everything they need to do to be favorably considered by the Corps.** They said the biggest road block in the way of these projects moving forward is **funding and authority provided by Congress.**

#### **Senate Appropriations Committee Energy and Water Development Subcommittee Meeting**

We met with both majority and minority staff from the Senate Energy and Water Development Subcommittee, which is the subcommittee responsible for providing funding for the Corps. They provided several suggestions on how to get both projects moving forward.

First, they suggested that **Topsail Island's congressional delegation send letters to the Energy and Water Development Appropriations Subcommittees in the House and Senate requesting that the Subcommittees continue to support shore protection funding and new starts as they prepare the Energy and Water Development appropriations bills for FY 2018. When we discussed this matter with staff, they said what is needed in the bill is language directing the Corps to fund at least one new construction start for shore project, and that is what the request from the delegation should be.** This directive from the delegation will help to inform the Subcommittees as they develop their appropriations bills for FY 2018. **We have discussed this request with your congressional delegation and they are supportive and willing to send such a letter. Therefore, we are working with your congressional delegation to write and send letters to the Subcommittees expressing support for shore protection funding and new starts.**

Second, Subcommittee staff suggested that Corps projects that have dual benefits across Corps business lines (a beach renourishment project that ties in beneficial use of sand from navigation maintenance, for

example) could be given priority. They said that if the Topsail Island project could use local navigation projects as a source of material, that could help build priority for the project.

Lastly, there could be a couple options in the future if the non-federal sponsors could provide upfront contributions for construction; however, these are not ideal situations and would not help to advance consideration of the projects for new starts construction funding.

### **Congressional Delegation Meetings**

As you know, on April 28, Representatives Jones and Rouzer sent a joint letter to the Corps expressing support for both projects in FY 2017, and Senators Burr and Tillis sent a similar joint letter to the Corps on May 24. Unfortunately, the Topsail Island projects were not ultimately included in the Corps' FY 2017 Work Plan. We have immediately proceeded with plans to request their inclusion in the FY 2018 Work Plan, and your congressional delegation has agreed to send another letter to the Corps expressing their support for inclusion of both projects in the FY 2018 Work Plan and the President's FY 2019 budget request.

Timing for the release of the FY 2018 Work Plan is dependent on when Congress approves appropriations for FY 2018 (see the "FY 2018 Appropriations" section above for more information.) Since we have been informed that Congress will try to complete work on appropriations sometime this fall; therefore, we are planning another set of meetings in Washington for mid-September to emphasize TISPC's agenda. **We encourage TISPC to consider sending a few Commission members to Washington to join us for the meetings on the afternoon of September 12 and morning of September 13. Please advise as soon as possible as to whether representatives from the Commission would be available for this trip so we can schedule the trip accordingly.**