



TO: STEVE SMITH
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FROM: MIKE MCINTYRE

SUBJECT: SEPTEMBER MONTHLY LEGISLATIVE UPDATE

DATE: SEPTEMBER 28, 2017

MONTHLY LEGISLATIVE UPDATE

Lawmakers returned to Washington on September 5 after a five-week August recess faced with a long list of must-pass bills that must be approved by Congress and signed by the President by September 30. So far, lawmakers have dealt with several of the highest priority items, at least temporarily. The top priorities included approving a spending package to avoid a government shutdown, raising the debt ceiling, and providing emergency supplemental funding for Hurricane Harvey relief. Within their first week back, the House and Senate easily approved a Continuing Resolution (CR) brokered between President Trump, House Minority Leader Nancy Pelosi (D-CA), and Senate Minority Leader Chuck Schumer (D-NY) to fund the federal government at enacted FY 2017 levels for ten weeks, through Friday, December 8, 2017, to give both chambers more time to work on regular FY 2018 appropriations. Congress needed to pass a funding bill by September 30 to avert a government shutdown.

In addition to the government funding aspect of the CR, the legislation also:

- Raises the federal debt limit through December 8, 2017, in order to avoid a federal default on or around September 29;
- Provides \$15.25 billion in emergency supplemental funding for Texas and Louisiana in the wake of Hurricane Harvey;
- Reauthorizes the National Flood Insurance Program (NFIP) through December 8, 2017, which was set to expire on September 30, to give Congress more time to work on a long-term reauthorization bill;
- Extends authority for the Bureau of Reclamation to provide emergency drought assistance from prior year appropriations through the expiration of the CR;
- Allows the Disaster Relief Fund spending flexibility to accommodate Hurricane Harvey, Hurricane Irma, and other ongoing disaster response efforts; and
- Provides, through the duration of the CR, a higher rate for operations to cover costs associated with ongoing water infrastructure projects.

Two vital pieces of legislation that must also be enacted by the end of September, but were omitted from the CR include: extensions of the Federal Aviation Administration's (FAA) authority to operate and the Children's Health Insurance Program (CHIP). Without congressional action by September 30, the FAA would be unable to collect and use fees, and CHIP would no longer be able to provide insurance for an estimated 9 million children. The FAA is likely to get a simple extension in the coming weeks to give Congress more time to work on a long-term reauthorization. Regarding CHIP, the leaders of the Senate Finance Committee said they are trying to craft either a bipartisan long-term re-authorization of the program or a long-term extension. Because the FAA and CHIP are considered "must-pass" items this

month, lawmakers may use the occasion to attach other unrelated items. One possibility is a bill aimed at stabilizing Affordable Care Act insurance markets.

FY 2018 Appropriations

With government funding now secured through December 8, 2017, due to the passage of the CR, the House and Senate will continue to work on regular FY 2018 appropriations. The House is much further along in the process than the Senate. As of September 14, the House has approved all 12 FY 2018 appropriations bills on the floor. The Senate has yet to approve any bills on the floor and still waiting to approve several bills at the committee level.

In the House, on September 14, lawmakers passed—by a vote of 211-198—a \$1.2 trillion “Make America Secure and Prosperous Appropriations Act, 2018” (H.R. 3354), which bundles eight of the 12 FY 2018 spending bills (Interior-Environment, Agriculture-Federal Drug Administration, Commerce-Justice-Science, Financial Services-General Government, Homeland Security, Labor-Health and Human Services-Education, State-Foreign Operations, and Transportation-Housing and Urban Development) along with the four-measure minibuss appropriations bill passed by the House on July 27 (H.R. 3219), which includes the FY 2018 Defense, Legislative Branch, Military Construction-VA, and Energy-Water Development spending bills.

The House-passed omnibus, while skinnier than the bills that Senate appropriators have worked on so far this year, would provide more funding overall than President Donald Trump’s total budget request. The White House sought \$462 billion in non-defense discretionary funds, or \$48 billion less than the House’s spending package. The White House had asked for \$603 billion in defense funds, \$18 billion less than the House measure would provide. Despite providing less funding than the White House request, the House omnibus still exceeds the Budget Control Act defense spending cap of \$549 billion. Any measure that would lift the defense caps would require support from Senate Democrats, who have called for a corresponding increase in the caps for domestic programs. House and Senate appropriators will have to work through this Budget Control Act violation and other significant differences when they begin official conference negotiations after the Senate passes its bills.

UPDATE ON TISPC FEDERAL LOBBYING PRIORITIES

The current status of each item is outlined below. The meetings referenced are the meetings held in Washington, DC, on September 12-13 at which TISPC representatives were present along with Poyner Spruill and The Ferguson Group.

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

Meeting with Senator Burr and Senator Tillis

The TISPC Washington Delegation thanked both Senator Tillis and Senator Burr for introducing legislation that would accept the final recommended maps proposed by the U.S. Fish and Wildlife Service (FWS) and amend the maps to exclude from CBRS those areas of North Topsail Beach serviced by a full complement of infrastructure, which existed prior to 1982 (S. 1745). Significant strategy discussions were not formally carried out during this meeting; however, TISPC Washington Delegation staff and staff from both Senators offices further discussed strategy after the meeting and in follow up emails that were sent in the days following the meeting.

The general agreement is that the legislation will be easier to move through the Fisheries, Water and Wildlife Subcommittee and the full Senate Environment and Public Works Committee if FWS does not oppose the legislation. It should be noted that FWS has not formally opposed the legislation; however, given the agency's prior position on the issue, it can be assumed that the agency would continue to uphold its position. Poyner Spruill and The Ferguson Group suggested to staff that the Senators discuss this issue with Department of Interior Secretary Ryan Zinke when they are discussing the CBRA/Corps sand borrowing issue. It is our understanding that this conversation with Secretary Zinke could occur as soon as the week of September 18.

Meeting with Josh Bowlen, Chief of Staff, Congressman Jones

Congressman Jones was only available to meet with TISPC at the beginning of the meeting; therefore, the majority of our discussions occurred with Josh Bowlen, the Congressman's Chief of Staff. Josh firmly assured the TISPC Washington Delegation that Congressman Jones is willing to introduce a bill that is the same or closely tracks the Senate bill. Josh said he will talk to Bill Ball, the Majority Staff Director for the House Subcommittee on Water, Power and Oceans, to further discuss the legislation and its prospects in the House. Poyner Spruill and The Ferguson Group have sent Josh a follow-up email in the days following the meeting and will continue to stay in contact with Josh as the process moves forward.

Meeting with Congressman Rouzer

Congressman Rouzer agreed to be a cosponsor to the bill Congressman Jones introduces.

Meeting with Bill Ball, Majority Staff Director, House Water, Power and Oceans Subcommittee

Despite the Water, Power and Oceans Subcommittee's prior resistance to legislation introduced to resolve this issue, Bill Ball, the Majority Staff Director of the Subcommittee, agreed to take a fresh look at the new legislative language and ways to resolve the issue. Bill will reach out to Josh Bowlen to further discuss the legislation. Bill is interested in staying apprised of movement on the Senate bill; therefore, Poyner Spruill and The Ferguson Group will stay in contact with Bill to provide necessary updates.

Meeting with Andrew Harding, Counsel, Senate Environment and Public Works Committee

Only the North Topsail Beach TISPC representatives and The Ferguson Group (on behalf of them and Poyner Spruill) participated in this meeting because the only issue set to be discussed was the CBRA mapping legislation.

Andrew Harding, who is a Counsel to the Senate Environment and Public Works Committee and who worked with Senator Tillis' staff to review the legislation before it was introduced, was receptive of TISPC's position. He was interested in understanding why FWS was opposed to these changes, and asked for documentation of FWS's statements regarding infrastructure being present in North Topsail Beach prior to 1982, which Poyner Spruill and The Ferguson Group are working to provide to him in a timely manner. Andrew agreed that the map needs to be changed if it is wrong despite possible opposition by FWS. Andrew said it would be helpful to the Committee if Senators Burr and Tillis worked with FWS and DOI to change the Administration's position on the issue because it is difficult for the Committee to proceed on legislation that the Administration opposes. We have made this suggestion to Senator Burr's and Senator Tillis' staff as well. Andrew said he will stay in contact with Senator Burr's and Senator Tillis' offices and asked that we keep in touch with him as well, which Poyner Spruill and The Ferguson will do moving forward.

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

Meeting with Senator Burr and Senator Tillis

Senators Burr and Tillis are interested in potentially finding a short-term solution to the issue by working directly with the Administration; a solution that the Senators could eventually codify to be a long-term solution. The Senators have agreed to discuss this issue with Secretary Zinke at the Department of Interior, and it is our understanding that this conversation could occur as soon as this week. Poyner Spruill and The Ferguson Group are keeping in contact with staffs from both offices. We will provide an update as it becomes available.

Both Senators and their staffs have also been made aware of efforts in the House to resolve this issue (please refer to information below for more details).

Meeting with Josh Bowlen, Chief of Staff, Congressman Jones

Congressman Jones is fully supportive of resolving this issue. The TISPC Washington Delegation made Josh Bowlen aware of efforts by the House Natural Resources Committee and House Transportation and Infrastructure Committee to resolve the issue, as well as legislative efforts currently being considered by Congressman Rouzer. Josh will follow-up with Congressman Rouzer's office as well as Bill Ball at the House Water, Power and Oceans Subcommittee to further discuss options.

Meeting with Congressman Rouzer

Congressman Rouzer is fully supportive of resolving this issue and has taken the lead on pursuing a potential legislative solution (legislative language that was originally developed by Poyner Spruill and The Ferguson Group and presented to Congressman Rouzer's office and others). Congressman Rouzer, who is a member of the House Transportation and Infrastructure Committee Subcommittee on Water Resources and Environment—the committee and subcommittee of jurisdiction over the Corps of Engineers—, suggested that there are several paths forward for moving such a legislative solution in the House. For example, the so-called “infrastructure package” and the FY 2018 Water Resources and Development Act (WRDA) bill are potential legislative vehicles, among others. Congressman Rouzer is aware of efforts the House Natural Resources Committee and House Transportation and Infrastructure Committee are currently considering. Perry Chappell in his office will continue to discuss these options with relevant committee staff.

Meeting with Bill Ball, Majority Staff Director, House Water, Power and Oceans Subcommittee

Bill said he has heard from several communities so far this year that are having similar issues with FWS in regard to FWS's interpretation of CBRA and how that is affecting beach renourishment projects. Bill said this is an issue that has just come to the Subcommittee's attention in the last few months but it is an issue that they are trying to resolve in a timely manner.

Meeting with Kelly Colyar, Chief, Water and Power Branch of the Office of Management and Budget

Kelly Colyar is the Chief of Corps-related activities at the White House Office of Management and Budget (OMB). Under the Trump Administration, Kelly said she is particularly focused on making sure federal resources are used efficiently and effectively; therefore, she was very interested to hear how the sand-use issue is affecting the cost of the Topsail Beach WRRDA project. She inquired about other communities that are facing similar issues, and asked specific questions about how FWS makes its CBRA determinations. She was interested to hear that FWS does not have any environment issues with the sand borrowing activities that occur in Banks Channel and that its only opposition is due to CBRA restrictions. She appreciated the information and would like to stay apprised of any movement made by the Administration and Congress on this issue.

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

Meeting with Senator Burr and Senator Tillis

Senators Burr and Tillis continued to express their support for both Topsail Island WRRDA projects. The Senators were realistic about future opportunities for coastal storm damage reduction projects at the federal level, and stated that the State of North Carolina's efforts to help fund beach renourishment and dredging projects has been very helpful and necessary. Senator Burr stated that there is no long-term approach to funding these types of projects at the federal level but that there might be some way to create that in the future; however, he is not sure how that would be done or if it would be viable. Nevertheless, both Senators said they will continue to strongly fight to provide the necessary funding and authority the Corps needs to construct both projects.

Please note that on September 12, the Senators sent a joint letter to the Corps expressing support for both projects in FY 2018 and requesting that the Corps include the projects in its FY 2018 Work Plan.

Meeting with Josh Bowlen, Chief of Staff, Congressman Jones

Congressman Jones continues to be supportive of both Topsail Island WRRDA projects. Congressman Jones is interested in working with Congressman Rouzer to have important appropriations report language included in the final FY 2018 appropriations package (which we currently expect to be passed in early December). This language would provide the Corps of Engineers the authority to proceed to construction on at least one coastal storm damage reduction project in FY 2018. This is language that is included in the Senate's Energy and Water Appropriations bill report but not in the House's version of the report. (*As you may recall, Poyner Spruill and The Ferguson Group worked with the Senate Energy and Water Appropriations Committee staff to have this report language included.*)

Meeting with Congressman Rouzer

Congressman Rouzer continues to be supportive of both Topsail Island WRRDA projects. Congressman Rouzer has agreed to take the lead on efforts to have important appropriations report language included in the final FY 2018 appropriations package that would provide the Corps of Engineers the authority to proceed to construction on at least one coastal storm damage reduction project in FY 2018. Congressman Rouzer has a strong working relationship with House Appropriations Committee Chairman Rodney Frelinghuysen (R-NJ) and plans to directly discuss this issue with him. In the days following the meeting, Poyner Spruill and The Ferguson Group have worked with Perry Chappell, the Congressman's Legislative Assistant, to prepare the necessary language and information needed to present to Chairman Frelinghuysen. Poyner Spruill and The Ferguson Group will continue to stay in contact with Perry on the progress of this initiative.

Meeting with Kelly Colyar, Chief, Water and Power Branch of the Office of Management and Budget

Kelly is aware that coastal storm damage reduction projects are not always priority items but assured us that the Administration views these projects as important. The high benefit-cost-ratios for both projects help make the projects more competitive when OMB and the Corps rank the projects. Therefore, the work that the communities are doing to get started on the projects and thus further increase the benefit-cost-ratios and reduce the cost of the projects make the projects even more attractive. Kelly appreciated the information provided by the TISPC Washington Delegation and welcomes updates from the local sponsors on both projects in the future.

Meeting with Corps of Engineers (Edward Belk, Chief of Civil Works Program Integration; Stacey Brown, Deputy Chief, South Atlantic Division; Patrick O'Donnell, South Atlantic Division; and Dr. Larry McCallister, South Atlantic Division Regional Integration Team Leader)

Edward “Ed” Belk, the Chief of Civil Works Program Integration, assured the TISPC Washington Delegation that the Corps is supportive of both Topsail Island WRRDA projects and plans to advance them to the Administration for consideration in the FY 2018 Work Plan. Ed said that the Topsail Island projects are two of the most competitive coastal storm damage reduction projects waiting for a new start construction authorization from the Corps. He assured us that the Corps is “all in” but the problem is that they are financially restricted in what they are able to do. If given sufficient funding and new start authorizations from Congress, the Corps would be better positioned to provide funding to these projects. Ed and Stacey particularly appreciated TISPC’s diligence in keeping the Corps apprised of developments with both projects and assured us that they are as committed to the projects as the local sponsors. They also expressed appreciation for the proactive work the communities are undertaking to start both projects, which will further reduce the overall cost of the projects and increase the benefit-cost-ratios, which will make the projects even more competitive.