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TOPSAIL ISLAND SHORELINE PROTECTION COMMISSION

**FROM:** MIKE McINTYRE

**SUBJECT:** MARCH/APRIL MONTHLY LEGISLATIVE UPDATE

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## MONTHLY LEGISLATIVE UPDATE

### **FY 2018 Budget and Appropriations**

On March 23, President Trump finally signed a \$1.3 trillion fiscal year (FY) 2018 omnibus appropriations bill, the *Consolidated Appropriations Act, 2018*, into law after nearly six months of continuing resolutions (CRs) and stalled negotiations. The omnibus will fund the federal government for the remainder of FY 2018 (through September 30, 2018).

The House swiftly passed the omnibus on March 22 just hours after the bill text was released by a vote of 256-167. The Senate passed the bill in the early morning hours of March 23 by a vote of 65-32. President Trump briefly threatened to veto the bill because it does not address the Deferred Action for Childhood Arrivals issue or provide enough funding for the Southwest border wall. However, he ultimately decided to sign the bill, warning Congress during a news conference that he “will never sign another bill like this again.” He also called on Congress to allow him line-item veto power for future spending bills, which is not likely to happen.

Overall, the omnibus adheres to the recently enacted budget caps agreement, providing an additional \$80 billion for defense and \$63 billion for non-defense spending. The increase in defense spending is the largest year-to-year increase since the beginning of the War on Terrorism. Most of the increases in domestic spending are directed towards programs to fight the opioid epidemic, for homeland security, and for infrastructure. The bill includes nearly \$4 billion in resources to combat the opioid crisis by investing in treatment, prevention and law enforcement programs. Congress also provided over \$1.5 billion to support the President’s request for funding for a physical barrier and associated technology along the Southwest border. Regarding infrastructure, the bill provides an influx of approximately \$21 billion for a variety of infrastructure programs, including programs to build and improve transportation, water, cyber and energy infrastructure.

In early April, the White House publicly acknowledged that it was working with House Majority Leader Kevin McCarthy (R-CA) on a rescissions package to reverse some of the \$1.3 trillion in spending included in the omnibus. A rescission bill uses special legislative procedures in the Senate to reverse previously appropriated government funding with only a simple majority. March’s omnibus was a compromise between Republicans and Democrats; it needed Democrat votes to meet the 60 vote threshold in the Senate. Now, President Trump and House Republicans are responding to conservative backlash over the costliness of that compromise by using a rescission bill to roll back the funding they did not want but had to include to court Democrat votes.

At this point, no details have been released regarding which programs will see funding cuts. The White House did announce, however, that funding for border security, the military, and the opioid crisis will not be included in the rescissions package. The House is looking to introduce and pass the package sometime after the one-week May 1<sup>st</sup> congressional recess.

Omnibus details for specific agencies of interest to TISPC are below:

#### National Oceanic and Atmospheric Administration (NOAA):

The omnibus includes \$5.9 billion for NOAA, which is \$234 million above the FY 2017 level. Funding is targeted to priorities such as the National Weather Service, fisheries management, coastal management, and weather research. The bill also includes funding to continue the current Joint Polar Satellite System weather satellite program and the Geostationary Operational Environmental Satellite program to help maintain and improve weather forecasting to warn communities about potentially devastating natural disasters.

#### U.S. Army Corps of Engineers:

The omnibus provides \$6.83 billion for the Corps of Engineers, an increase of \$789 million above the FY 2017 enacted level, which will provide a much needed influx of funds into the nation's water resources infrastructure. The bill focuses funding on activities that will have an immediate impact on public safety, job creation, and economic growth, including those that help increase the functionality of ports and waterways. Provisions of interest to TISPC include:

- \$3 billion for navigation projects and studies, including \$1.4 billion in funding from the Harbor Maintenance Trust Fund, which, at 94 percent of the estimated year's Harbor Maintenance Tax collection, is a record high use of the trust fund.
- Full use of the estimated annual revenues, plus additional balances, from the Inland Waterways Trust Fund, which is devoted to navigation construction projects in the inland system.
- \$1.9 billion to support public health and safety by funding flood and storm damage reduction activities, an increase of \$215 million above FY 2017 and \$577 million above the budget request.
- \$1.7 billion of "additional funding" to be allocated among budgeted and non-budgeted projects in the Corps' Work Plan to be submitted 60 days from the bill's signing.
- Authority for six new starts in the Investigations account and five new starts in the Construction account.
  - Of the new starts for Investigations, two are for navigation studies, one is for flood and storm damage reduction, two are for navigation or flood and storm damage reduction, and one is for an environmental restoration study.
  - Of the new starts for Construction, one is for a navigation project, one is for a flood and storm damage reduction project, two are for additional navigation or flood and storm damage reduction projects, one of which shall for an environmental restoration project and one of which shall be for a coastal storm damage reduction project, **a great success for us in as much as it was the language which we had actively supported and promoted in our Washington meetings.**
- \$5,570,000 in the Operations and Maintenance Account for the New River Inlet.

#### Federal Emergency Management Agency (FEMA):

The omnibus provides \$7.9 billion for FEMA's disaster relief fund to respond to disaster situations and \$3 billion for FEMA grant programs, including

- \$507 million for the State Homeland Security Grant Program;

- \$249.2 million for Pre-disaster Mitigation grants; and
- \$262.5 million for flood mapping.

The omnibus also extends the authorization for the National Flood Insurance Program (NFIP) through July 31, 2018. The most recent authorization expired on March 23.

## **FEMA NFIP Affordability Framework**

On April 17, FEMA released its highly-anticipated “[Affordability Framework](#),” which is meant to provide Congress with policy solutions to address National Flood Insurance Program (NFIP) affordability issues. The Affordability Framework is based on the findings of a two-part Affordability Study ([Report 1](#) and [Report 2](#)) completed by FEMA in 2015 and 2016, as mandated by the Biggert-Waters Flood Insurance Reform Act of 2012 (BW-12). The Affordability Framework was later mandated by Congress in the Homeowner Flood Insurance Affordability Act of 2014 (HFIAA).

The conclusions of the Affordability Framework suggest that Congress should shift from providing policy discounts based on the age of a home and when flood maps went into effect to a system that directs benefits to households in which flood insurance is financially burdensome. The Affordability Framework states, “A flood insurance affordability program will presumably make the purchase of flood insurance more feasible and more attractive for households that currently do not carry flood insurance and thus are not able to recover quickly or as fully after a flood event.” This conclusion is based on findings that show the price of flood insurance is a barrier to entry for homeowners with low median incomes.

In the report, FEMA provides policymakers with four main affordability program design options to consider:

1. Income-based premium sharing: Lower-income households would be responsible for paying for a portion of the premium amount and FEMA covers the remainder of the premium amount. In this option, as household income levels rise, the portion of the premium that would be covered by FEMA decreases.
2. The premium burden-based benefit: Lower-income households would be responsible for paying for a portion of their income for flood insurance. If the required proportion of income is not sufficient to cover the insurance premiums, FEMA would cover the remainder of the premium amount.
3. The housing burden-based benefit: Lower-income households that spend more than a specified amount of their income on housing-related expenses, such as mortgage amount, taxes and insurance would receive assistance.
4. Mitigation grants or loans: This approach would complement the other program designs. Under this design option, the government would provide financial assistance to fund structure-specific mitigation activities that lead to reduced risk. The assistance would be a grant for lower-income households and a loan for more moderate-income households.

Due to a provision included in the FY 2018 omnibus, Congress currently has until July 31, 2018, to reauthorize the NFIP. It is unclear how or if the findings of the Affordability Framework will impact this deadline or change any bills currently approved or being considered by Congress.

## UPDATE ON 2018 TISPC FEDERAL ADVOCACY PRIORITIES

The current status of priority agenda items are outlined below. The meetings referenced are the meetings held in Washington, DC, on March 20 and 21 at which TISPC representatives were present along with Poyner Spruill and The Ferguson Group (TISPC Washington Delegation). Some of the meetings that were originally scheduled to take place were cancelled due to severe weather in Washington which resulted in the closure of all federal government offices on March 21. We were, however, able to meet with the following:

- Bradd Schwichtenberg  
Acting South Atlantic Division Regional Integration Team Leader  
Army Corps of Engineers
- Representative David Rouzer  
Perry Chappell, Legislative Assistant  
The Office of Representative David Rouzer
- Mykel Wedig, Legislative Assistant  
Torie Ness, Legislative Correspondent  
The Offices of Senator Richard Burr and Senator Thom Tillis (joint meeting)
- Andrew Harding  
Counsel  
Senate Committee on Environment and Public Works

Three meetings were cancelled due to weather: The Office of Representative Walter Jones; the House Natural Resources Committee Subcommittee on Water, Power, and Oceans; and the House Transportation and Infrastructure Committee Subcommittee on Water Resources and Environment. We have been in contact with these offices and plan to meet with them in-person in the next month.

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

As you know, staff from the Offices of Senators Burr and Tillis met with the U.S. Fish and Wildlife Service (USFWS) in January to discuss H.R. 4692/S. 1745, the North Topsail Beach CBRA mapping bill. As a result of that conversation, Senate staff requested some additional information from us that will help them respond to potential questions about the legislation from USFWS and others in the Senate. These questions were mostly related to historical precedent for such an action and potential costs to the federal government. We worked with North Topsail Beach to answer the question regarding potential costs to the federal government by providing historical NFIP claims data. We submitted this information to the Senate offices and shared it with the House offices.

### **Washington Meetings**

During the March meetings in Washington, the TISPC Washington Delegation discussed the importance of passing H.R. 4692/S. 1745 with the staff from the Senate Environment and Public Works Committee as well as the Offices of Senators Burr and Tillis. The Senate Environment and Public Works staff expressed that they would be supportive of moving the bill through the committee process if USFWS is supportive of the bill, and suggested that they could move the bill along with a package of other CBRA-related mapping bills. They also suggested that a conversation between Senators Burr and Tillis and Secretary of the Interior Ryan Zinke could help achieve USFWS support. We had previously discussed this idea last year with Senators Burr and Tillis, and we are currently awaiting a follow-up response from the Senators' staffs for getting this request done.

In the meeting with staff for Senators Burr and Tillis, staff expressed support for continuing to work with USFWS to gain support for the bill, and said that the information we provided regarding historical NFIP claims data and potential costs to the federal government will be helpful in those conversations. We emphasized that we would like for this bill to be passed this session of Congress, before the end of the year. They reiterated that this is a priority issue for the Senators this year, and they will continue to do what they can to keep the bill moving through the process.

## **2. Topsail Beach – Support legislation that would allow the use of sand from inlet CRBA areas for beach nourishment**

During a CBRA hearing in late February, Representative Garret Graves (R-LA), Chairman of the House Transportation and Infrastructure Committee Subcommittee Water Resources and Environment, asked pointed questions regarding the importance of beach renourishment and coastal protection to Gary Frazier, Assistant Director of Ecological Services for USFWS. Representative Graves specifically questioned him about CBRA-related sand borrowing restrictions, particularly with regard to USFWS's interpretations of the CBRA statute and how that is impacting beach renourishment projects across the country. Mr. Frazier said that USFWS is just following the direction it receives from Congress. Unsatisfied with his answer, Representative Graves asked Mr. Frazier to provide the Subcommittee with recommendation on how Congress could address some of the CBRA-related sand borrowing issues. Mr. Frazier said they he would.

Representative Graves's comments were reflective of the discussions we have had with House Transportation and Infrastructure Committee Subcommittee on Water Resources and Environment staff and House Natural Resources Committee Subcommittee on Water, Power, and Oceans staff, which shows that our efforts have had influence on committee staff and leadership. House committee staff recently told us that they are waiting to receive recommendations from USFWS as well as the Corps of Engineers (which they requested several months ago) before finalizing legislative language to fix the issue. Therefore, it could be several months before legislative language is finalized in the House.

In the meantime, on the Senate side, we asked Senators Burr and Tillis to submit a request to the Senate Environment and Public Works Committee regarding the inclusion of legislative language (which TFG and Poyner Spruill drafted) to fix the CBRA sand borrowing issue in the Senate's 2018 Water Resources Development Act (WRDA) bill. Both offices agreed to do so. The WRDA bill is likely the best legislative vehicle to approve such a provision, particularly in the Senate because the Senate Environment and Public Works Committee has jurisdiction over both CBRA and the Corps, which is not the case in the House. In the House, this jurisdiction is split between the House Transportation and Infrastructure Committee Subcommittee on Water Resources and Environment and the House Natural Resources Committee Subcommittee on Water, Power, and Oceans, which is why we work with both committees on this issue.

The Senate has yet to release its 2018 WRDA bill. We will continue to work with the Senate Environment and Public Works Committee and the Senators' offices to ensure that the sand-borrowing fix is included in the bill.

### **Washington Meetings**

The TISPC Washington Delegation also discussed this issue with Representative Rouzer, the Senate Environment and Public Works Committee, and staff for Senators Burr and Tillis. Representative Rouzer, who has been influential on the committee-level thus far on the issue, continued to express his willingness to push the issue in committee and find a legislative vehicle. The Senate Environment and Public Works Committee staff expressed interest in the issue and was aware of the WRDA request submitted by Senators Burr and Tillis. However, they were non-committal that the committee would include the

provision in its WRDA bill. (TFG and Poyner Spruill have been working to address this issue since the Washington meetings by encouraging other communities and lobbyists to discuss the issue with the committee. We will also be following up with the committee in-person in the next month). The TISPC Washington Delegation also thanked the Senators' staff for submitting the WRDA request to the Senate Environment and Public Works Committee.

**3. Island-wide – Obtain federal funding for approved federal beach nourishment projects (Surf City/North Topsail Beach & Topsail Beach)/remove the seven-year sunset clause**

As you know, Congress finally approved FY 2018 appropriations on March 23 with the legislative language for which we had advocated regarding a new construction start. The Corps now has until late May to release its FY 2018 Work Plan. We will know if funding for the Surf City/North Topsail Beach WRRDA project is included in the FY 2018 Work Plan when it is officially released in May.

In the interim, we have been advocating for inclusion of funding for the Surf City/North Topsail Beach WRRDA project in the Work Plan. **At our request, TISPC's congressional delegation sent a letter to the Corps on April 19 expressing their support for the project as well as explaining why it is important that the Corps provide funding to the project in the 2018 Work Plan.**

**Washington Meetings**

The TISPC Washington Delegation discussed the importance of providing funding to the Surf City/North Topsail Beach WRRDA project in the FY 2018 Work Plan with Bradd Schwichtenberg, Acting South Atlantic Division Regional Integration Team Leader for the Army Corps of Engineers. Bradd provided us with information regarding other potential funding options for the project if new starts construction funding does not materialize. However, he admitted that other funding options are just as hard, if not harder, to obtain. He also said that additional conversations with the South Atlantic Division and OMB could be helpful if work plan funding is not realized this year. In addition, he discussed several important points to keep in mind when discussing the project with others at the Corps and OMB, which were ultimately included in the letter TISPC's congressional delegation sent to the Corps in support of the project.

The TISPC Washington Delegation also discussed with Bradd the CBRA sand-borrowing issues that are impacting the cost of the Topsail Beach WRRDA project.