



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

**FROM:** MIKE McINTYRE

**SUBJECT:** JUNE MONTHLY LEGISLATIVE UPDATE

**DATE:** JUNE 25, 2018

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## MONTHLY LEGISLATIVE UPDATE

The following Monthly Legislative Update provides information on the following topics:

- FY 2019 Budget and Appropriations
- Army Corps of Engineers' 2018 Work Plan
- Water Resources Development Act
- White House Proposal to Reorganize the Executive Branch
- Update on 2018 TISPC Federal Advocacy Priorities

### **FY 2019 Budget and Appropriations**

Action on Fiscal Year (FY) 2019 appropriations is continuing to move at a swift pace. The House Appropriations Committee has already approved ten of the twelve annual appropriations bills at the full committee level, three of which were approved by the full House of Representatives on June 8<sup>th</sup> as part of a “minibus” appropriations package: Energy and Water Development (E&W); Legislative Branch; and Military Construction-Veterans Affairs (MilCon-VA). The Senate has yet to approve any bills on the floor; however, the chamber is scheduled to vote on its E&W appropriations bill on June 25<sup>th</sup>. Like the House Appropriations Committee, the Senate Appropriations Committee has also approved a total of ten FY 2019 appropriations bills thus far.

It is still unclear if Congress will need to approve a short-term continuing resolution to keep the government funded past the September 30<sup>th</sup> deadline given how much time it takes to reconcile differences between the House and Senate appropriations bills. It is possible that some of the FY 2019 bills that are moving through the process at a faster pace (E&W, Legislative Branch, and MilCon-VA) may be approved before September 30<sup>th</sup> while other, more controversial bills may need short-term extensions.

### **Army Corps of Engineers' 2018 Work Plan**

On June 11<sup>th</sup>, the Army Corps of Engineers (Corps) publicly released its [FY 2018 Work Plan](#). The FY 2018 omnibus, the *Consolidated Appropriation Act, 2018*, provided the Corps with \$1.772 billion in additional funding to allocate to specific projects and priorities. The allocation of these additional funds is presented in the Work Plan. The distribution of the additional funds provided by Congress is as following:

- Navigation: \$956 million
- Flood Risk Management: \$541 million

- Other Authorized Project Purposes: \$254 million
- Formerly Utilized Sites Remedial Action Program: \$21 million

The 2018 Work Plan funds to completion 39 feasibility studies, four projects in the Preconstruction Engineering and Design phase, and 13 construction projects or elements of projects. It also funds six new study starts and five new construction starts. One of the five new construction starts went to a coastal storm damage reduction project in Sarasota, Florida.

In the Operation and Maintenance account of the Work Plan, the Corps provided \$250,000 in funding to perform routine maintenance in the New River Inlet.

*(Please see section #3 under the “Update on 2018 TISPC Federal Advocacy Priorities” for more information regarding new starts and our advocacy efforts).*

### **Water Resources Development Act**

As you know, in early May the Senate Environment and Public Works Committee (EPW) introduced its version of legislation to reauthorize the Water Resources Development Act (WRDA), titled the *America’s Water Infrastructure Act of 2018* ([S. 2800](#)). The full Senate is expected to take up S. 2800 on the floor as soon as the week of July 9<sup>th</sup>, and Senators are expected to submit a significant number of amendments. Discussions are already underway about limiting debate time, but it is unclear at this time which amendments leadership will allow.

The House passed its WRDA bill, the *Water Resources Development Act of 2018* ([H.R. 8](#)), on June 6<sup>th</sup> by a commanding vote of 408-2. The House adopted 50 amendments by voice vote before final passage, none of which would have consequential impacts on TISPC projects and priorities.

For more information on specific sections of H.R. 8 and S. 2800 that may be of interest to TISPC, please refer to the WRDA section of the May 2018 Monthly Legislative Update to TISPC.

### **White House Proposal to Reorganize the Executive Branch**

On June 21<sup>st</sup>, the White House unveiled its long-anticipated sweeping reorganization plan for the federal government, titled “[Delivering Government Solutions in the 21<sup>st</sup> Century](#).” The reorganization plan outlines the Administration’s analysis and recommendations for the “structural realignment of the Executive Branch to better serve the mission, service, and stewardship needs of the American people.” Some recommendations can be done through executive actions while others will require congressional approval.

As part of the plan, the Trump Administration proposes to move the Army Corps of Engineers’ Civil Works missions out of the Department of Defense and into the U.S. Department of Transportation (DOT) and the U.S. Department of the Interior (DOI). The Corps’ navigation mission would be transferred to DOT and the remaining Civil Works missions (flood and storm damage reduction, aquatic ecosystem restoration, regulatory, and all other activities) would be moved to DOI, where those activities would be integrated and

aligned with “complementary programs” focused on issues like water management, ecosystem restoration, and recreation. With regard to the DOI component of the move specifically, the plan states:

“If the Corps’ restoration program was administered through DOI, the Executive Branch could better direct its ecosystem restoration investments to achieve the greatest benefit to fish, wildlife, and their habitat, and better leverage the expertise and relationships DOI maintains with State fish and wildlife agencies. In addition, consolidating the Corps’ regulatory responsibilities for permitting of non-Federal projects within DOI would simplify the infrastructure permitting process for stakeholders who often have to navigate multiple Federal agency processes when seeking project permits and approvals. Moving regulatory responsibilities, including those related to the Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, within DOI’s existing permitting programs would produce administrative efficiencies and opportunities for simplified interaction with stakeholders.”

The Administration is also proposing to move and/or consolidate several other federal agencies and programs. The plan proposes to merge the National Marine Fisheries Service, which is currently under the jurisdiction of the National Oceanic and Atmospheric Administration in the Department of Commerce, with DOI’s Fish and Wildlife Service (FWS). In addition, the plan proposes to merge the Labor and Education departments, consolidate many Energy Department programs into one “Office of Energy Innovation,” and move food stamps from the Department of Agriculture (USDA) to the Department of Health and Human Services, among other ideas.

This effort is similar to efforts of other administrations over the past several decades, which have not been successful in implementing such massive overhauls. A Government Accountability Office (GAO) report commissioned by Congress in 2009 to study the possibility of moving the U.S. Forest Service back to DOI after being moved to USDA in 1905 highlighted the fact that such reorganizations have been unsuccessful for a number of reasons, including political resistance to the specific changes by both Congress and affected stakeholders, and shifting governmental priorities.

Congress and the Administration would need to dedicate significant time and political capital to the reorganization effort for it to be successful, which is unlikely. Hours of congressional hearings and outreach to the various non-federal stakeholders impacted by these changes would be required. Members on both sides of the aisle have already called for hearings, and in fact, a hearing has been scheduled by the House Oversight and Government Reform Committee for June 27<sup>th</sup>. It is possible, however, that some of the proposed changes could be made, but not until after there has been a significant amount of congressional consideration and public input.

## UPDATE ON 2018 TISPC FEDERAL ADVOCACY PRIORITIES

The current status of priority agenda items are outlined below. The meetings referenced are meetings that were held in Washington, DC, on June 6<sup>th</sup>, 7<sup>th</sup> and 19<sup>th</sup>, at which Congressman McIntyre of Poyner Spruill and/or Stephanie Missert and Roger Gwinn of The Ferguson Group were present to advocate for TISPC priorities.

Meetings/discussions were held with the following:

- The Office of Greg Sheehan, Principal Deputy Director for Fish and Wildlife, FWS
- House Natural Resources Committee Subcommittee on Water, Power and Oceans
- House Transportation and Infrastructure Committee Subcommittee on Water Resources and Environment
- Senate Environment and Public Works Committee
- Senator Thom Tillis
- Office of Senator Richard Burr
- Congressman Walter Jones
- Office of Congressman David Rouzer
- National Audubon Society

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

We are pleased to report that the package of CBRS maps in which the Topsail Unit L06 *technical corrections* are included ([H.R. 5787](#)) was approved by the House Natural Resources Committee unanimously on June 13. The next step for the bill is to be considered on the House floor; however, timing for such consideration is unclear at this time.

As you know, unfortunately, H.R. 5787 does not include our desired amendments to take out portions of North Topsail Beach from CBRA that were served by a full complement of infrastructure in 1982 (H.R. 4692/S. 1745). Therefore, we continued discussions with TISPC's congressional delegation and relevant subcommittee staff during our series of meetings in Washington this month, the discussions of which are summarized below:

#### The Office of Greg Sheehan, Principal Deputy Director for Fish and Wildlife, FWS

We have been in regular contact with Greg Sheehan's office and are continuing efforts to secure an in-person meeting with Mr. Sheehan in July. We have sent background information to his office on the North Topsail Beach CBRA issue, which we can confirm has been reviewed.

#### House Natural Resources Committee Subcommittee on Water, Power and Oceans

The discussion we had with staff from the House Natural Resources Subcommittee on Water, Power and Oceans regarding H.R. 4692 was more positive than most of our past discussions. To begin, we discussed the package of CBRS maps in which the Topsail Unit L06 technical corrections are included (H.R. 5787). Staff reiterated that in order for H.R. 5787 to move through committee, any changes to maps that FWS has not already approved could not be included in the bill. In fact, staff told us that Congressman Neal Dunn,

the sponsor of H.R. 5787, has a similar “full complement of infrastructure” issue in his district that he would like to see amended, which is not addressed in his bill. This is likely due to concerns that such language could be problematic to ultimate passage of H.R. 5787. Staff told us that Congressman Dunn is having discussions with political appointees at FWS, who seem to be understanding of this full complement of infrastructure issue. This is a very positive development.

When asked about potential timing for committee consideration of H.R. 4692 and the similar issue in Congressman Dunn’s office, no specific timing was provided.

In addition, we again reiterated our position with regard to a full complement of infrastructure being present on North Topsail Beach prior to passage of CBRA. In this context we discussed the new NFIP data provided by North Topsail Beach, which they thought was “great” information that they had not seen or heard previously. We went into detail regarding how H.R. 4692 could potentially be “scored” by the Congressional Budget Office (CBO) and White House Office of Management and Budget (OMB), as the cost of these bills is typically a concern for conservative Members. We discussed that the NFIP data is a compelling argument against any potential negative cost scoring that could be associated with H.R. 4692.

#### Congressman Walter Jones

In our meeting with Congressman Jones, we focused most of our discussion on H.R. 4692. Congressman Jones was encouraged by the feedback we received from the House Natural Resources Subcommittee on Water, Power and Oceans, particularly with regard to the NFIP data collected by North Topsail Beach. We also discussed with him efforts underway in the Senate offices to secure a favorable “score” for the bill by OMB and CBO, which he found encouraging. In addition, we discussed the need for the Congressman to directly discuss H.R. 4692 with DOI Secretary Ryan Zinke. Congressman Jones eagerly agreed to do so in a timely manner and said that Secretary Zinke’s support could break the logjam on the issue.

#### Senator Thom Tillis

Congressman McIntyre was able to speak with the Senator for several minutes about the importance of the Senator speaking with Secretary Zinke and getting S. 1745 to the floor. The Senator reiterated his support for resolving the North Topsail Beach CBRA issue and confirmed his willingness to speak with Secretary Zinke.

During our meeting with staff, we reiterated the importance of Senator Tillis speaking to Secretary Zinke about S. 1745, and reminded them that the Senator agreed to do so during our meeting with him in September 2017. Staff informed us that the Senator will be meeting with Secretary Zinke during the July 4<sup>th</sup> recess when the Secretary is visiting the state on another issue, which we suggested would be an opportune time for Senator Tillis to discuss S. 1745 with the Secretary. Staff agreed and said that they would work to include S. 1745 on the agenda for Secretary Zinke’s visit. Staff said they will follow up with us after the meeting to provide us with an update on the conversation.

Staff also provided information on their latest discussions with OMB regarding the potential scoring of the bill. They said that these conversations are progressing and that the NFIP data has been helpful. They were encouraged that the House Natural Resources Subcommittee on Water, Power and Oceans staff reacted positively to the NFIP data. We encouraged staff to have another conversation with OMB about the NFIP data and to discuss with them that outside concerns which continue to arise, such as potential future costs to the federal government as a result of storms or sea level rise, have not previously been incorporated in the score of CBRA mapping bills and thus should not be considered with regard to S. 1745.

#### The Office of Senator Richard Burr

As we did with Senator Tillis's staff, we reminded staff that Senator Burr agreed to discuss S. 1745 with Secretary Zinke and reiterated the importance of such a conversation. Staff said that they would try to schedule a call between the Senator and Secretary Zinke in the near future, and said that they would also coordinate with Senator Tillis's office, even though Senator Burr will not be joining Senator Tillis during Secretary Zinke's trip to the state during the July 4<sup>th</sup> recess. Staff also said they will continue to work alongside Senator Tillis's office regarding conversations with OMB.

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

#### Senate Environment and Public Works Committee

In late May and early June, we met with majority and minority staff from Senate EPW to discuss proposed legislative language to resolve the sand borrowing issue, which we worked with Senators Burr and Tillis to submit for consideration during the 2018 WRDA process. As we reported in May, this language was not included in the bill introduced by Senate EPW. Majority and minority staff informed us that there were some "environmental concerns" expressed with regard to the proposed legislative language. However, they were not able to specify which offices or groups expressed these concerns. We discussed in detail with them the proposed language and explained that the language should not trigger any environmental concerns. Both majority and minority staffs seemed to have a greater understanding of the issue and the proposed language after the meetings, and appreciated that we explained the language so thoroughly and drafted the language with consideration for environmental concerns.

The majority staff suggested that support from the minority staff for the legislative language would help the majority include the language in the bill when it goes to the floor. Minority staff, though positive, said that they would need to confirm support for the language from environmental groups, in particular the National Audubon Society, which has become a leader on the CBRA issue for the environmental community.

#### National Audubon Society

At the suggestion of committee staff, we met with representatives of the National Audubon Society to discuss the sand borrowing issue and our proposed legislative language. Although Audubon said that they currently have no formal position on the issue or the language, representatives said that they will work with us to address the issue as quickly as possible, and understood that this is an issue that needs a resolution.

They requested additional information on the Topsail Beach project in particular, as well as any other documentation we have on the issue generally, which we are currently working to compile and provide to them so they can more thoroughly review the issue and determine a position. We are continuing to keep in contact with Audubon through this process to answer any questions and provide information.

#### House Natural Resources Committee Subcommittee on Water, Power and Oceans

We met with majority and minority staff of the Subcommittee on Water, Power and Oceans to discuss the sand borrowing issue and our proposed legislative solution. Majority staff said that they are tracking the issue closely but have deferred efforts to the House Transportation and Infrastructure Committee (House T&I) Subcommittee on Water Resources and Environment (see details on that meeting below).

Our discussion with minority staff was very similar to the discussion we had with Senate EPW minority staff in that they appreciated our considerations for potential environmental concerns but needed support from the environmental community, in particular the National Audubon Society, before proceeding with support.

We plan to follow up with majority and minority staff once the National Audubon Society has a more definitive position on the legislative language.

#### House Transportation and Infrastructure Committee Subcommittee on Water Resources and Environment

Staff from the House T&I Water Resources and Environment Subcommittee told us that they are continuing their efforts to draft legislative language, but they have yet to “put pen to paper.” They have requested and received information from the Corps of Engineers to help them draft their language, and are currently in the process of requesting information from FWS. The request to FWS is in the form of a letter from the Chairman of the Subcommittee: Congressman Garret Graves (R-LA). *A copy of the letter is included as an attachment to this memo.* Congressmen Jones and Rouzer signed the letter along with four other Members of Congress.

#### Senator Thom Tillis

Senator Tillis’s staff continued to signal their support for resolving the issue. We informed them of a potential effort by the New Jersey delegation to submit an amendment with our proposed legislative language when the Senate WRDA bill goes to floor for consideration in the coming weeks, and we asked them to support the New Jersey delegation in this effort. They agreed to do so and agreed that such bipartisan support (since both New Jersey Senators are Democrats) would be necessary for an amendment to be successful. We plan to stay in close contact with Senator Tillis’s office as the situation progresses.

#### Office of Senator Richard Burr

Like Senator Tillis’s staff, Senator Burr’s staff continued to express their support and said that they would help with any efforts underway to introduce a WRDA amendment on the floor.

#### Office of Congressman David Rouzer

Congressman Rouzer’s staff said that they are continuing to put pressure on the House T&I Water Resources and Environment Subcommittee staff to draft their language as quickly as possible so the issue

can be resolved legislatively in 2018. They acknowledge that this remains a priority for the Congressman, as shown in his support as a co-signatory to Chairman Graves's letter to FWS.

### Congressman Walter Jones

Congressman Jones also said that he continues to support legislative efforts to resolve this issue and, as you know, has signed Chairman Graves's letter to FWS.

### **3. Island-wide – Obtain federal funding for approved federal beach nourishment projects (Surf City/North Topsail Beach & Topsail Beach)/remove the 7-year sunset clause**

Regarding the 7-year sunset clause, as we have previously reported, both the House and the Senate WRDA bills include an extension of the 7-year sunset clause in WRRDA 2014 to ten years, language for which we had advocated with TISPC's congressional delegation and relevant House and Senate committees. Therefore, if both WRDA bills are approved without amendment to this provision, both WRRDA-authorized projects on Topsail Island will have until 2024 to receive new start funding before being deauthorized. The language was maintained in the House WRDA bill as it was considered on the floor in early June, and we expect the language to be maintained when the Senate considers its WRDA bill in the next two to three weeks. This provision will not go into effect until the House and Senate negotiate and pass a final compromise bill. This is not expected to occur until after the November 2018 mid-term elections, but could potentially occur sooner if negotiations progress swiftly.

Regarding the Surf City and North Topsail Beach WRRDA project, as we have reported above, the Corps of Engineers decided to provide the only coastal storm damage reduction construction new start in 2018 to a project in Sarasota, Florida. Despite this decision by the Corps, our strong advocacy for the Surf City and North Topsail Beach project (as well as the Topsail Beach project, before TISPC decided to solely pursue funding for the Surf City and North Topsail Beach project) has noticeably elevated Corps headquarters' attention to the projects, as was particularly demonstrated when Corps headquarters contacted the Towns to inquire about their readiness to proceed to the Project Partnership Agreement (PPA) phase of the project if funding became available to do so. This is a clear indication that the Corps was seriously considering our projects as it was putting together its 2018 Work Plan; we have not received such tangible validation from Corps headquarters in previous years. This provides a strong basis for our advocacy efforts with regard to the 2019 Work Plan. Our current strategy is as follows:

1. Meet with Corps Headquarters: We are working to schedule a meeting with Corps headquarters on July 17<sup>th</sup> to debrief on the Corps' 2018 Work Plan decision-making process, as well as to advocate for inclusion of funding for the Surf City and North Topsail Beach project in the 2019 Work Plan.
2. Secure Needed New Starts Language in FY 2019 Appropriations: We are working to include language in the FY 2019 E&W appropriations bill that will provide the Corps with the proper authority to fund a coastal storm damage reduction project in the FY 2019 Work Plan, and have already discussed this with TISPC's congressional delegation during our meetings in Washington on June 19<sup>th</sup>. As you know, we worked closely with Senate E&W appropriations subcommittee staff and TISPC's congressional delegation to ensure that the FY 2018 omnibus recommended that one of the five new construction starts for FY 2018 be for a coastal storm damage reduction project. We plan to advocate for similar language in FY 2019. This language will ensure that the Surf City

and North Topsail Beach project has another chance to compete for a new start authorization in FY 2019.

In addition, we strongly advise that one or two representatives from each of the towns of Surf City and North Topsail Beach travel to Atlanta, Georgia, to meet with the Corps' South Atlantic Division (SAD) to discuss the Surf City and North Topsail Beach project. Now is the opportune time to advocate for and secure SAD's strong support for the Surf City and North Topsail Beach project. We suggest that such a meeting occur in September—before FY 2019 E&W appropriations are approved and the Corps begins work on its FY 2019 Work Plan. Congressman McIntyre and Stephanie Missert and/or Roger Gwinn of The Ferguson Group plan to join Surf City and North Topsail Beach for the meeting. **We have identified September 13<sup>th</sup> as possible date for this meeting. Please advise as to whether one or two representatives from Surf City and North Topsail Beach can travel to Atlanta, Georgia, for a meeting with SAD on September 13<sup>th</sup>.**