



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

**FROM:** MIKE MCINTYRE

**SUBJECT:** OCTOBER MONTHLY LEGISLATIVE UPDATE

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## MONTHLY LEGISLATIVE UPDATE

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

- FY 2019 Budget and Appropriations
- Water Resources Development Act
- Update on 2018 TISPC Federal Priorities

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

As you know, in late September, Congress passed a 10-week Continuing Resolution (CR) to temporarily fund parts of the federal government at enacted Fiscal Year (FY) 2018 levels from October 1 through December 7, 2018. The CR applies to all federal departments and agencies under the jurisdiction of the seven FY 2019 appropriations bills that were not enacted prior to the beginning of FY 2019: Interior-Environment; Financial Services; Agriculture-Rural Development; Transportation-HUD; Homeland Security; Commerce-Justice-Science; and State-Foreign Operations. The CR was attached to an \$854 billion “minibus” appropriations package that included FY 2019 annual appropriations for the Departments of Defense, Labor, Health and Human Services, and Education (H.R. 6157), as well as an additional \$8.8 billion for Hurricane Florence disaster aid.

For now, work on the remaining FY 2019 appropriations bills is at a standstill until after Congress returns to Washington following the midterm elections. There are reports that issues over funding for the U.S.-Mexico border wall, among other items, may require Congress to pass another short-term CR from December 7 through December 14. A partial government shutdown is also possible.

### **Water Resources Development Act**

On October 10, the Senate passed the *America's Water Infrastructure Act of 2018* (S. 3021), also known as the biannual Water Resources Development Act. The House previously passed the bill on September 13 by voice vote. Among other things, the legislation: authorizes several new Corps of Engineers studies, construction and environmental restoration projects as recommended by the Chief of the Corps; reauthorizes the Drinking Water State Revolving Fund at more than \$4.4 billion over the next three years; reauthorizes the popular Water Infrastructure Finance and Innovation Act (WIFIA) program through FY 2021; and initiates a study with the National Academy of Sciences (NAS) to review the Trump Administration's controversial proposal to move at least parts of the Corps out of the Defense Department.

Sections of the bill that would be of most interest to TISPC include:

- **Section 1102. Study of the future of the United States Army Corps of Engineers.**  
This section directs the Corps to contract with the National Academy of Sciences to evaluate and provide recommendations to Congress on the efficacy of the current organizational structure of the civil works functions of the Corps and identify potential impediments to efficient project delivery. The study includes evaluating the Trump Administration's recommendation to move the Army Corps of Engineers out of the Defense Department and into the Departments of Transportation and Interior.
- **Section 1111. Dredge pilot program.**  
This section establishes a pilot program for the Corps to award dredging contracts across a geographical region rather than on a project-by-project basis, and to evaluate resulting potential cost savings.
- **Section 1112. Hurricane and storm damage protection program.**  
This section establishes a pilot program for the Corps to award contracts for multiple hurricane and storm damage reduction projects rather than on a project-by-project basis and to evaluate any potential cost savings.
- **Section 1116. Dredged material management plans.**  
This section directs the Corps to expedite the dredged material management plan process and make maximum use of existing information, studies, and innovative dredge material management practices.
- **Sec. 1120. Transparency and accountability in cost-sharing for water resources projects.**  
This section amends the current Corps cost-sharing requirements for feasibility studies and project construction to require that whenever a local cost-share is required for a water resources development project, each Corps district is required to maintain a balance sheet of the funding for the project. The Corps must provide the balance sheet to the non-Federal sponsor upon request. This section also requires that if a project comes in under-budget, the relevant share of the funds must be credited back to the non-federal sponsor in the appropriate cost-share ratio. Further, the non-federal interest may use the excess funds as its cost-share for other Corps projects or its cost share for operation and maintenance of a project for which a non-federal cost-share is required.
- **Section 1130. Beneficial use of dredged material.**  
This section increases the number of pilot projects for the beneficial use of dredged material, pursuant to section 1122 of WRDA 2016.
- **Section 1136. Credit or reimbursement.**  
This section clarifies that non-federal interests of authorized flood damage reduction or coastal navigation projects may request a credit for the Federal share of costs or a reimbursement of funds, subject to the availability of appropriations.
- **Section 1148. Beneficial use of dredged sediment.**  
This section allows the Corps to grant a temporary easement for a project for the beneficial reuse of sediment to reduce storm damage to property under section 204 of WRDA 1992, with the limitation that the project shall no longer be eligible for future placement of sediment.

- **Section 1149. Inclusion of alternative measures for aquatic ecosystem restoration.**  
 This section includes a paragraph that directs the Corps to consider the use of both traditional and natural infrastructure alternatives, alone or in conjunction with each other, if those alternatives are practicable, for flood risk management or hurricane and storm damage reduction feasibility studies.
- **Section 1160. Emergency response to natural disasters.**  
 This section clarifies that hurricane and storm damage risk reduction project damaged or destroyed by natural disasters, shall be rebuilt to either pre-storm levels or its design level of protection, whichever is greater.
- **Section 1166. Advanced funds for water resources development studies and projects.**  
 This section helps move projects into construction. Additionally, this section provides that the use of any statutory provision that allows a non-federal interest to provide, advance, or contribute funds to the Secretary for the development or implementation of a water resources development project does not adversely affect the timeline or budgeting processes for other projects that do not use such authorities. Accordingly, the Corps will treat projects that proceed through regular appropriations and statutory cost-share the same as projects that may utilize advanced or contributed funds.
- **Section 1204. GAO study on benefit-cost analysis reforms.**  
 This section directs the Comptroller General to report to Congress on the benefit-cost procedures used by the Office of Management and Budget (OMB) and recommendations to improving the benefit-cost analysis procedures of the Corps and OMB.
- **Section 1207. Study on innovative ports for offshore wind development.**  
 This section directs the Corps to furnish a report of all federally authorized ports and harbors that could become innovative ports for offshore wind development and barriers to the development for offshore wind development.
- **Section 1209. Study and report on expediting certain waiver processes.**  
 This section directs the Corps to furnish a report on how to improve and implement the waiver process for non-federal cost shares for certain storm damage prevention and reduction projects.
- **Section 1216. Assessment of harbors and inland harbors.**  
 This section directs the Corps to include opportunities for the potential beneficial use of dredged materials in its assessment of the operation and maintenance needs at the Nation's harbors and inland harbors.
- **Section 1330. Project deauthorizations and study extensions.**  
 This section extends the 7-year deauthorization sunset of projects and studies authorized under WRRDA 2014 to 10 years, something for which we have advocated. *(Therefore, both WRRDA-authorized projects on Topsail Island will now have until 2024 to receive new start funding without risk of being deauthorized.)*
- **Section 2020. Assistance for areas affected by natural disasters.**  
 This section authorizes \$100 million in funding over the next two fiscal years to aid areas that since January 1, 2017 have received a major federal disaster declaration due to devastation from a natural disaster and need help repairing their drinking water systems or hooking up to other ones to obtain potable drinking water.
- **Section 4101. Stormwater infrastructure funding task force.**  
 This section directs the EPA Administrator to establish a stormwater infrastructure funding task force to study and develop recommendations to improve the availability of public and private sources of funding for stormwater infrastructure.

- **Section 4103. Technical assistance for treatment works.**

This section amends section 104 of the Federal Water Pollution Control Act (also known as the Clean Water Act or CWA) to allow the EPA to make grants to nonprofit organizations to provide technical assistance relating to financing wastewater infrastructure in rural, small, and tribal municipalities.

- **Section 4106. Sewer overflow control grants.**

This section amends Section 221 of the CWA to provide grants to states for management of stormwater.

## UPDATE ON 2018 TISPC FEDERAL ADVOCACY PRIORITIES

The current status of priority agenda items are outlined below. The meetings referenced are meetings held in Washington on October 16, at which Roger Gwinn and Stephanie Missert of The Ferguson Group were present, and Congressman McIntyre of Poyner Spruill participated by phone.

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

On October 16, Senator Burr's and Senator Tillis' staffs reiterated to us that the North Topsail Beach issue remains a top priority for both offices. They are encouraged by their conversations with the Department of Interior—the Secretary's office specifically—and believe overcoming that major hurdle will now help them focus their efforts on moving the legislation through Congress. They reported that their best plan of action right now is to try to package S. 1745 (H.R. 4692 in the House) with other CBRA legislation in the Senate. They are working to build a coalition of Senators that are trying to move CBRA-related legislation, including the Florida, New Jersey and Texas delegations.

We also discussed with them the status of H.R. 5787, the package of non-controversial CBRA technical mapping corrections in the House, for which there is not a Senate companion. We discussed that this bill, if it were to pass the House then move to the Senate for consideration, would also be a viable legislative vehicle. However, the likelihood of the bill moving in the House is unclear at this time. Therefore, we are planning to set up a follow-up meeting with the House Natural Resources Committee, the committee with jurisdiction over CBRA issues in the House, to discuss the status of H.R. 5787.

Congressman Jones's staff remains encouraged by the progress being made in the Senate on H.R. 4692/S. 1745 and believes that the bill has a better chance of moving through the Senate first then coming to the House for consideration.

Given the limited number of legislative days left this year, the general consensus in our conversations with both the House and Senate offices is that timing for potential movement on both H.R. 4692/S. 1745 and H.R. 5787 is unclear. The offices will continue to explore all possible legislative avenues to move these bills forward this year. Because of the unexpected delays caused by the hurricanes and the shifting timeline for approval of annual appropriations and other major legislative items, the congressional delegation has stated that it is possible that the timeline may need to be extended into next year. All three offices expressed that they would be willing to reintroduce legislation next year, if necessary.

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

As you may recall, in early June, Chairman Garret Graves (R-LA) of the House Transportation and Infrastructure Committee Subcommittee on Water Resources and Environment, along with Congressman Jones, Congressman Rouzer and four other Members of Congress, sent a letter to the U.S. Fish and Wildlife Service (FWS) requesting information that will help the committee draft legislative language to resolve the CBRA sand borrowing issue impacting Topsail Beach. Unfortunately, our conversations with Congressman Jones' staff and Congressman Rouzer's staff confirmed that the subcommittee has yet to receive a response from FWS. We plan to discuss this issue with the House Natural Resources Committee when we meet with them in the next couple of weeks, since any legislative language drafted would be under the jurisdiction of the House Natural Resources Committee. We will request that the committees follow up with FWS so the committees can proceed with drafting legislative language.

**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**

We are pleased to inform you that after our meetings in Washington on October 16, Senator Burr, Senator Tillis, Congressman Jones and Congressman Rouzer sent a joint congressional letter to the Corps of Engineers requesting that the Corps include the Surf City and North Topsail Beach Project in the Corps' FY 2019 Work Plan. During our meetings, we again asked the delegation to call Corps leadership directly to advocate for the project, particularly because we know that the FY 2019 Work Plan is currently under review in the Assistance Secretary of the Army's office. The delegation was amenable to the request and expressed optimism about the new start. The earliest we will see the FY 2019 Work Plan is mid- to late-November.

We also discussed the possibility of there being another disaster aid package approved in November or December to support Hurricane Florence and Hurricane Michael recovery efforts. This package may provide the delegation with an opportunity to include language providing funding through the Corps of Engineers for all authorized Corps projects, not just Corps constructed projects, which could potentially allow the Surf City and North Topsail Beach Project to be eligible for Corps of Engineers funding outside the annual Work Plan process. Although it is unclear if this approach is possible, we are working with TISPC's congressional delegation to achieve such a result.