



TO: STEVE SMITH
TOPSAIL ISLAND SHORELINE PROTECTION COMMISSION

FROM: MIKE McINTYRE

SUBJECT: NOVEMBER/DECEMBER MONTHLY LEGISLATIVE UPDATE

DATE: DECEMBER 4, 2018

MONTHLY LEGISLATIVE UPDATE

The November/December Monthly Legislative Update provides information on the following topics:

- FY 2019 Budget and Appropriations
- National Flood Insurance Program Reauthorization
- Update on 2018 TISPC Federal Priorities

FY 2019 Budget and Appropriations

As you know, numerous federal agencies are currently operating under a Continuing Resolution (CR) that extends 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-Housing and Urban Development; Homeland Security; Commerce-Justice-Science; and State-Foreign Operations.) Congress will not be able to agree on the remainder of FY 2019 funding by December 7; therefore, a short-term CR is expected to be approved. The new CR will extend through December 21.

The CR was originally planned to only extend through December 14. However, the passing of former President George H.W. Bush, who will lie in state at the U.S. Capitol this week, has further delayed action on budget talks. The House is not scheduled to hold any votes this week, except for the vote (likely a voice vote) needed to extend government funding through December 21.

National Flood Insurance Program Reauthorization

On December 1, President Trump signed the *National Flood Insurance Program Further Extension Act of 2018* into law. The bill extends the National Flood Insurance Program (NFIP) authorization for one week, from December 1 through 7, 2018. As you may recall, a previous extension of the NFIP only extended through the end of November. This marks the eighth short-term extension of the NFIP since it initially expired on September 30, 2017.

In the coming week, Congress will enact a two-week extension of the NFIP (through December 21, when the next CR will expire), to authorize the NFIP through May 31, 2019. If the NFIP's authorization were to lapse, two major things would happen:

- The authority to provide new flood insurance contracts would expire. Flood insurance contracts entered into before the expiration would continue until the end of their policy term of one year.
- The authority for NFIP to borrow funds from the Treasury will be reduced from \$30.425 billion to \$1 billion.

Other activities of the program would technically remain authorized, such as the issuance of Flood Mitigation Assistance Grants. However, the expiration of the key authorities listed above would have potentially significant impacts on the remaining NFIP activities. If there were to be a lapse in authorization on December 21, 2018, and the borrowing authority is reduced to \$1 billion, FEMA would continue to adjust and pay claims as premium dollars come into the National Flood Insurance Fund (NFIF) and reserve fund. If the funds available to pay claims were to be depleted, claims would have to wait until sufficient premiums were received to pay them unless Congress were to appropriate supplemental funds to the NFIP to pay claims or increase the borrowing limit.

The new 116th Congress will now be responsible for developing a robust reauthorization of the NFIP—a task which was supposed to be handled by the 115th Congress.

UPDATE ON 2018 TISPC FEDERAL ADVOCACY PRIORITIES

The current status of priority agenda items are outlined below. Priority items 1 and 2 will be addressed in the same summary.

- 1. North Topsail Beach – Continue to facilitate changes to the CBRA maps**
- 2. Topsail Beach – Support legislation that would allow the use of sand from inlet CRBA areas for beach nourishment**

As we reported to the TISPC approximately two weeks ago, the U.S. House of Representatives approved H.R. 5787, the *Strengthening Coastal Communities Act of 2018*, on November 16. The bill has been sent to the Senate for consideration. A vote on the bill in the Senate has not yet been scheduled but will likely occur either the week of December 10 or the week of December 17.

Staff for Senator Burr and Senator Tillis, as well as Poyner Spruill and The Ferguson Group, have discussed H.R. 5787 with Senate Environment and Public Works Committee staff. According to Senate Environment and Public Works Committee staff, the Senate, like the House, currently does not plan to make any substantive changes to H.R. 5787 as it moves through the process in the Senate. There is concern that any major changes to H.R. 5787 could compromise its ability to be approved by the Senate this Congress. The offices of Senator Burr and Senator Tillis made it clear to the Senate Environment and Public Works Committee that they would be willing to stall Senate efforts on H.R. 5787 if they did not have assurance from the Committee that the Committee would work on addressing the North Topsail Beach CBRA mapping issue and the Topsail Beach CBRA sand borrowing issue after Congress convenes in January. . The Committee provided the Senate offices with this assurance. Thus, both the North Topsail Beach CBRA mapping issue and the Topsail Beach CBRA sand borrowing issue will remain priorities for Senator Burr and Senator Tillis next year.

Congressman Jones and Congressman Rouzer remain encouraged and supportive of the progress being made in the Senate on both issues, and plan to again be supportive next year. We have been actively promoting both issues with relevant House committee staff.

With regard to the Topsail Beach sand borrowing issue specifically, we have had several conversations with the National Audubon Society, the House Natural Resources Committee and the House Transportation and Infrastructure Committee to work on draft legislative language. We worked with Chris Gibson of TI Coastal Services, Inc. to provide the National Audubon Society with information on the positive impacts the Topsail Beach sand borrowing activities have had to the area, which the organization said would help them better understand the issue. We will continue to have these positive conversations with the National Audubon Society. We have also relayed this important information to relevant committee staff. Ultimately, an agreement on legislative language will not be resolved until the U.S. Fish and Wildlife Service provides a response to the letter Chairman Garret Graves (of the House Transportation and Infrastructure Committee Subcommittee on Water Resources and Environment), as well as Congressman Jones, Congressman Rouzer and four other Members of Congress, sent to the agency in June requesting information that will help the committee draft legislative language. It is our understanding, after speaking with the staff of Congressman Graves, that a response from the U.S. Fish and Wildlife Service is expected very soon.

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

The Army Corps of Engineers did not provide funding to the Surf City and North Topsail Beach coastal storm damage reduction project in its FY 2019 Work Plan, which was published on November 21. There is no clear answer as to why the Corps of Engineers decided to not provide funding to the project. It is important to point out that Congress specifically directed the Corps to consider the selection of a coastal storm damage reduction project in the report accompanying the *Energy and Water, Legislative Branch, and Military Construction and Veterans Affairs Appropriations Act, 2019*. Yet, despite this direction, not only did the Corps not provide a new start to the Surf City and North Topsail Beach Project, but it also decided not to provide any new starts to coastal storm damage reduction projects anywhere in the country. It is concerning that the Corps chose to disregard the request of Congress, particularly in light of the severe tropical storms and hurricanes that have damaged communities along the Atlantic and Gulf coasts in just the past couple of years. We have discussed the issue with TISPC's congressional delegation, who are also surprised and disappointed that the Corps chose not to provide funding to the project. We have drafted a letter for your congressional delegation to urge Corps action on this situation.

There may be other ways to fund the project, however, which we are currently exploring with TISPC's congressional delegation. We have discussed the possibility of there being another disaster aid package approved by the end of the year or early next year 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. We are working with

TISPC's congressional delegation to achieve such a result. In addition, there is a possibility that congressionally-directed spending, also known as earmarks, will be allowable next year, though we do not know to what extent at this point. The return of earmarks may allow TISPC to seek funding through Congress rather than the Corps of Engineers, which may prove more fruitful given the support of the House and Senate appropriations committees for our requests to include language in annual appropriations bills directing the Corps to provide funding to coastal storm damage reduction projects. We will keep TISPC informed as these possibilities are further explored.