



TO: STEVE SMITH
TOPSAIL ISLAND SHORELINE PROTECTION COMMISSION

FROM: MIKE MCINTYRE

SUBJECT: FEBRUARY MONTHLY LEGISLATIVE UPDATE

DATE: FEBRUARY 25, 2019

MONTHLY LEGISLATIVE UPDATE

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

- Budget and Appropriations
- Disaster Aid Package
- Corps of Engineers South Atlantic Coastal Study Webinar on February 27
- Update on TISPC Federal Priorities

Budget and Appropriations

On January 25, President Trump signed a three-week Continuing Resolution (CR) to temporarily fund numerous federal agencies through February 15, ending the 35-day partial federal government shutdown that resulted from partisan disagreements related to border security funding. On February 14, Congress approved an omnibus appropriations measure containing \$325 billion in discretionary appropriations to fund outstanding agencies for the remainder of Fiscal Year (FY) 2019, which ends on September 30, 2019. The deal also provides \$1.375 billion for 55 new miles of border fencing in the Rio Grande Valley area of Texas. That funding level is far short of the \$5.7 billion President Trump requested to build a wall along the southern border. As a result, President Trump signed the omnibus appropriations bill into law, but to make up for the funding Congress would not provide for a border wall, he also declared a national emergency to direct more resources to the southern border.

[Please see the below section on the Surf City and North Topsail Beach Project for information regarding language that was included in the omnibus that could benefit TISPC.]

Disaster Aid Package

Disaster aid funding was not be included as a rider to the FY 2019 appropriation funding deal. Key Senators and Members are reporting that a disaster aid package of more than \$12 billion to help areas hit by recent hurricanes, typhoons and wildfires did not move forward with the funding deal because of outstanding disagreements over funding for Puerto Rico. Negotiations continue and another push will be made to approve a disaster aid package in the coming weeks.

Senators Burr and Tillis, along with nine other Senators, sent a [letter](#) to House and Senate leadership on February 13 urging for the prompt consideration of a disaster aid package. “Congress has a responsibility to appropriate disaster funding and assist our states, which are facing daily challenges trying to rebuild and

restore,” the letter states. “As such, we insist you bring a disaster supplemental bill to the floor for consideration at the earliest opportunity to ensure that the federal government fulfills its responsibility.”

[Please see the below section on the Surf City and North Topsail Beach Project for more information on how a disaster aid package could benefit the Project.]

On a separate but related note, Congressman Rouzer plans to host a Hurricane Recovery Roundtable on March 4 at 6:00 p.m. to provide constituents with information about services available to those still recovering from Hurricane Florence. Members of the public will also have the opportunity to visit informational booths set up by local nonprofits and companies. Representatives from the following organizations will be present at the Hurricane Recovery Roundtable: Federal Emergency Management Agency, North Carolina Department of Public Safety, North Carolina Farm Bureau, Salvation Army, Food Bank of Eastern North Carolina, Disaster Recovery Group of Duplin County, Habitat for Humanity, Duke Energy, North Carolina Baptist Men and the North Carolina Cooperative Extension.

Corps of Engineers South Atlantic Coastal Study Webinar on February 27

The Army Corps of Engineers, in partnership with federal agencies and non-governmental organizations, is hosting the first of multiple stakeholder meetings on the South Atlantic Coastal Study (SACS) in the form of a webinar on February 27 from 10:00 to 11:00 a.m. (EST). The goal of “Vision Meeting 1” is to provide information and initiate collaboration on the proposed study scope and schedule. A “Frequently Asked Questions” (FAQ) document will be developed as a result of the webinar, as well as a “Shared Vision” document that will serve to guide the study.

The SACS was authorized by Section 1204 of the *Water Resources Development Act of 2016* (WRDA) to proactively address coastal storm risks of vulnerable coastal populations, infrastructure, ecosystems, and economies within the Corps’ South Atlantic Division (SAD). The study includes tidally influenced shorelines subject to damages from coastal storms and sea level rise within North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Puerto Rico and the U.S. Virgin Islands. The study will conduct regional analyses of coastal risk throughout SAD and identify measures to address vulnerabilities.

Written comments and questions are due by March 20, 2019, to SACS@usace.army.mil. Regional meetings will follow as the study progresses, providing opportunities for in-person discussion.

The following meeting information was provided by the Corps:

Access the webinar at:

<https://usace.webex.com/meet/SACSVisionMeeting1>

For best results, use Internet Explorer as the browser, if possible. Please log in with your name and email address before joining the meeting. Providing your email will add your name to the SACS stakeholder list.

Audio: The preferred method of connecting to the audio is using the "Call Me" option offered once you log in to the webinar and security code 1111#. If you have trouble using the "Call Me" option, please use the following dial-in information:

Dial 877-336-1828
Access code 4348906#
Security Code 1111#

If the main webinar line is full, the overflow address is:
<https://usace.webex.com/meet/SACSVisionMeeting1-Overflow>

Do not use the "Call Me" option if using the overflow line. Dial into the phone line shown above.

UPDATE ON TISPC FEDERAL ADVOCACY PRIORITIES

The current status of priority agenda items are outlined below.

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

As we previously reported, we worked with the staffs of Senator Burr and Senator Tillis to make several minor language changes to the North Topsail Beach CBRA mapping bill that will ensure that the U.S. Fish and Wildlife Service (USFWS) does not have any flexibility in its interpretation of the language, should it become law. This draft language was first sent to the Senate Legislative Council for feedback and approval, and at our suggestion, was then sent to the USFWS for “drafting services.” Drafting services can be requested by any Member of Congress or any federal agency. The purpose of receiving such services is to ensure that the agency will interpret the legislative language as Congress intends. USFWS responded to the request, which was made by Senator Tillis’ office, stating that the language as written is technically feasible to implement, but they would likely require another consultation with North Topsail Beach to verify data.

The updated language is included as an attachment to this memo.

As you will notice, the language is currently drafted in the form of an amendment. This is because Senators Tillis and Burr submitted the language as an amendment to a natural resources package ([S. 47](#)) that was moving through the Senate. The amendment ([S. Amdt. 143](#)) was submitted on February 6. Over 83 amendments were submitted and only three amendments were considered on the floor—the sponsors of S. 47 did not want any other amendments considered. Unfortunately, our amendment was not approved. Although unsuccessful, this effort was productive in that it required the Senate Environment and Public Works Committee (EPW) to take a position on the language. The EPW majority said that they would not object to the amendment even though there were some concerns expressed by the minority. The stance taken by the EPW majority provides optimism that they will take such a stance again when the language moves as a stand-alone bill or attached to another piece of legislation in the future.

S. 47 is expected to be approved by the House this week without further amendment.

We are continuing discussions with TISPC’s congressional delegation regarding timing for introduction of a stand-alone bill. With the passing of the late Congressman Jones, it is again likely that the Senate will take the lead on the introduction of a bill. However, Congressman Rouzer remains a strong supporter of North Topsail Beach and its efforts to fix the CBRA mapping issue, and will continue to be an advocate on the issue in the House.

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

Senators Tillis and Burr also submitted amendment language to the natural resources package that would fix the sand borrowing issue on Topsail Beach. The amendment ([S. Amdt. 130](#)) contains the same language for which we have been advocating over the past two years. As a reminder, the language would amend the CBRA to allow federal beach renourishment projects to remove sand material within the CBRS for placement on or near a shoreline that is not within the CBRS. Like the North Topsail Beach amendment, this amendment was not considered on the Senate floor, and therefore was not approved.

We will continue to work with TISPC’s congressional delegation to find a legislative vehicle to move this language. The next most likely package to include the language is in an upcoming infrastructure package. We will keep you updated as this opportunity develops.

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

Omnibus Language

Division D of the omnibus, which provides Financial Services and General Government appropriations, includes language that effectively bars the White House Office of Management and Budget (OMB) from making changes to the Corps of Engineers’ annual work plan. As we previously reported, our contacts on and off Capitol Hill have suggested that there was a growing frustration among Members of Congress with OMB for making changes to the Corps work plan. As a result, language barring OMB from changing the work plan was approved in the omnibus. We discussed and expressed support for such legislative language barring OMB from making changes to the Corps work plan with TISPC’s congressional delegation in December and January.

As you know, it is our understanding that the Corps intended to provide funding to the Surf City and North Topsail Beach Project, and that the Project was included in the FY 2019 Work Plan when the Work Plan was sent to OMB. Since the Project was ultimately not provided funding in the FY 2019 Work Plan, it is apparent that OMB was responsible for removing the Project from the final FY 2019 Work Plan—not the Corps. The language approved in the omnibus is intended to ensure this does not happen again, should the Surf City and North Topsail Beach Project be included in a future work plan.

However, in a [statement](#) released by the White House on February 15, the Administration expressed that it disagreed with the language: “The President has well-established authority to supervise and oversee the executive branch and to rely on subordinates, including aides within the Executive Office of the President, to assist in supervising the executive branch. Legislation that significantly impedes the President’s ability

to supervise the executive branch or obtain the assistance of aides in this function violates the separation of powers by undermining the President's ability to fulfill his constitutional responsibilities, including the responsibility to faithfully execute the laws of the United States." Therefore, the Administration concluded that it will continue to operate "consistent with these Presidential duties," suggesting that the Administration and thus OMB will continue to exercise its role with regard to the Corps work plans. It is currently unclear how Congress plans to respond to the Administration's position.

Disaster Aid Package Language

As we have previously reported, we have been working with the delegation to include language in an upcoming disaster aid package that would allow the Corps to use disaster aid funding for authorized, but not yet constructed, Corps projects (i.e. new starts). This 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. This language has been included in both House-passed disaster aid packages and has support in the Senate.

It is our understanding that the Corps has a list of projects for which it would use the disaster aid funding to continue, complete or start a project. We have been informed that the Surf City and North Topsail Beach is considered a priority project and is included on this list. Although no guarantees can be made at this juncture, there is a good possibility that funds will be made available through an upcoming disaster aid package that can be used to start the Surf City and North Topsail Beach Project.

Though securing funding for the Surf City and North Topsail Beach Project through the disaster aid package remains an achievable option, we continue to advocate for inclusion of the Project in the FY 2020 Work Plan (to be released in the fall) in the event that the disaster aid package strategy is unsuccessful.

Possible Return of Earmarks

There is a possibility that congressionally-directed spending, also known as earmarks, will be allowable in FY 2020, 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.

The earliest we expect to hear a definitive answer regarding the return of earmarks is mid-March, when the appropriations committee guidance to Members regarding what will be considered allowable appropriations requests is planned to be released. Any earmark requests that we will make on behalf of TISPC will take place in the weeks following the release of the guidance.

MEETINGS IN WASHINGTON

We look forward to welcoming staff and officials from TISPC that will be joining us for meetings in Washington on March 12. Next week, we will send documents with our key talking points to those that will be attending the Washington meetings. If there are any other documents that TISPC would like us to include in the packets of information we will be distributing during the meetings, please send those documents to

Stephanie Missert (smisert@tfgnet.com, 202-261-3691) by no later than Friday, March 8, to allow sufficient time for printing.