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SUBJECT: JULY/AUGUST MONTHLY LEGISLATIVE UPDATE

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The July/August Monthly Legislative Update provides information on the following topics:

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WASHINGTON NEWS

Budget and Appropriations

A major breakthrough has finally occurred to help move FY 2020 appropriations bills across the finish line before the September 30, 2019, deadline. On August 1, the Senate passed the *Bipartisan Budget Act of 2019* (H.R. 3877), which sets forth new spending caps (increasing spending by \$324 billion over two years) and suspends the debt ceiling through July 31, 2021. (The House previously passed the bill on July 25.) With the new spending caps in hand, the appropriations committees can finalize spending numbers in their FY 2020 appropriations bills.

The Senate has been waiting for a budget deal before finalizing or introducing any of its FY 2020 appropriations bills, but the Senate Appropriations Committee (SAC) is now ready to move forward. The House Appropriations Committee (HAC) has already approved ten of the 12 FY 2020 appropriations bills. However, HAC will need to rework several of these spending bills to reduce non-defense accounts by approximately \$15 billion to reflect the bicameral spending caps agreement, while defense-related accounts will receive an extra \$5 billion. Additionally, Republicans and Democrats, as part of the new budget deal, both agreed that no “poison pill” policy riders will be in the FY 2020 and 2021 spending bills, although they left that term undefined and the agreement is non-binding.

It is expected that at least some of the FY 2020 appropriations bills will require short-term extensions, but we are confident that the Energy and Water bill, which provides funding to the Army Corps of Engineers (Corps), will at a minimum be approved on time by September 30. Senate appropriators have indicated that it will be one of the first bills out of the gate in the Senate.

National Flood Insurance Program Reauthorization

As we previously reported, the House Financial Services Committee considered and unanimously approved two NFIP reauthorization bills in June: H.R. 3167, the *National Flood Insurance Program Reauthorization Act of 2019*, and H.R. 3111, the *National Flood Insurance Program Administration Reform Act of 2019*. H.R. 3167 is bipartisan legislation that reauthorizes the NFIP for five years and includes a number of reforms to increase affordability, improve mapping, enhance mitigation, and modernize the NFIP. H.R. 3111 is bipartisan legislation that makes much-needed improvements to the NFIP's appeals and litigation process following the numerous flaws identified in the oversight, accountability, and transparency of the claims process in the aftermath of Superstorm Sandy.

Since the Committee's passage of these bills, some coastal Members have expressed disappointment with the bills because they say the bills did not go far enough to protect homeowners from unsustainable premium increases and improve the flood insurance claims process. This has prompted the introduction of another bipartisan NFIP reauthorization bill, this time in both the House and Senate. The *National Flood Insurance Program Reauthorization and Reform Act of 2019* ([S. 2187](#), [H.R. 3872](#)) has 10 bipartisan cosponsors in the Senate and 17 bipartisan cosponsors in the House. Major provisions in the bill include:

- Long-Term Reauthorization. Reauthorizes the NFIP for five years.
- Protections Against Steep Rate Increases Resulting from Risk Rating 2.0. Protects policyholders from excessive premium increases by capping annual increases at 9%. Currently, premiums can more than double every four years or less, and FEMA's new methodology, called Risk Rating 2.0 (implementation to start in 2020), will fundamentally alter premiums on every policy in the country. This untested and unknown methodology could cause rate shock and lead to unaffordable premiums similar to what was experienced as a result of the *Biggert-Waters Act of 2012*, which caused costs to rise steeply, hurting policyholders and disrupting the real estate market.
- Affordability Program for Low- and Middle-Income Policyholders. Starts a means-tested voucher program for low- and middle-income homeowners and renters if their flood insurance premium causes their housing costs to exceed 30% of their Adjusted Gross Income.
- NFIP Solvency. Freezes interest payments on the NFIP debt and reinvests savings towards mitigation efforts to restore the program to solvency and reduce future borrowing.
- Limits on Private Insurance Profits. Caps Write Your Own (compensation at the rate FEMA pays) to service its own policies and redirects the savings to pay for the means-tested affordability program.
- Increased Cost of Compliance (ICC) Coverage. Increases the maximum limit for ICC coverage to better reflect the costs of rebuilding and implementing mitigation projects. In addition, ICC coverage eligibility is expanded in order to encourage more proactive mitigation.
- Investments in Mitigation. Provides funding for cost-effective investments in mitigation.
- More Accurate Mapping. Authorizes funding for Light Detection and Ranging (LiDAR) technology for more accurate mapping of flood risk.

- Oversight of WYO Companies. Creates new oversight measures for insurance companies and vendors and provides FEMA with greater authority to terminate contractors that have a track record of abuse.
- Claims and Appeals Process Reforms Based on Lessons Learned from Sandy. Makes substantial reforms to the claims process based on lessons learned in Superstorm Sandy and other disasters, to level the playing field for policyholders during appeal or litigation, bans aggressive legal tactics preventing homeowners from filing legitimate claims, holds FEMA to strict deadlines so that homeowners get quick and fair payments, and ends FEMA's reliance on outside legal counsel from (expensive) for-profit entities.
- Better Training. Provides for increased training and certification of agents and adjusters to reduce mistakes and improve the customer experience.

(Summary information provided by the bill sponsors.)

Now that NFIP legislation has been introduced in both chambers, the chances of Congress approving a bill before the reauthorization deadline of September 30, 2019, have slightly improved. However, the House and Senate will only be in session in September for 13 and 15 days, respectively, leaving little time for Congress to consider a bill on the floor. The floor schedule will also be packed with must-pass bills in September, including annual appropriations.

House to Vote on Offshore Drilling Ban in September

In early September, the House plans to vote on two pieces of legislation that would prevent the Interior Department from including the Atlantic and Pacific planning areas in the Administration's proposed 2019-2024 offshore drilling plan, as well as permanently extend the moratorium on leasing in the eastern side of the Gulf of Mexico. The legislation is expected to pass the House, but at this time it is unlikely that the Senate will take up the measures.

South Atlantic Division Establishes New Hurricane Restoration Initiative Office

The Army Corps of Engineers South Atlantic Division recently discussed with us its establishment of a new office at its Atlanta Headquarters: The Hurricane Emergency Restoration Initiative. The office was established to help handle the increased number of active and future studies and projects in the South Atlantic Division due to recent storms. The Division is anticipating that it will be responsible for even more projects as a result of the Disaster Relief Act. The office is being headed by Valarie "Lisa" Grande, Chief of Hurricane Emergency Restoration.

Coastal Resilience Bill Introduced

On July 30, Representatives Don Beyer (D-VA) and Francis Rooney (R-FL) introduced the *National Ocean and Coastal Security Improvements Act* (H.R. 4093). The bill would support coastal communities' ability to prepare for and respond to a variety of coastal threats, including extreme weather events, climate hazards and changing ocean conditions by improving coastal infrastructure and supporting coastal research, resiliency, conservation and restoration work. Specifically, H.R. 4093 would improve upon the National Oceanic Atmospheric Administration's (NOAA's) current coastal resilience program. It would clarify definitions for "tidal shoreline," specify percentages for how the National Oceans and Coastal Security

Fund shall be used for national and state block grants and the national competitive grant program, and detail specific eligible uses for the Fund's grant programs. Further, the bill explains additional requirements to receive financial support from the Fund.

Transportation Infrastructure Bill Focuses Funding on Resilience

The Senate Environment and Public Works Committee (EPW) released a long-awaited transportation reauthorization bill on July 29, 2019, the *America's Transportation Infrastructure Act of 2019* (S. 2302), to authorize funding and program direction to the U.S. Department of Transportation (DOT) for Fiscal Years (FY) 2021-2025. The next day, on July 30, EPW held a markup to make several additional changes to the bill. EPW passed the bill by a vote of 21-0. The bill is being referred to as the "most substantial highway legislation in history" by the Committee. A transportation reauthorization bill is typically approved every five years. The next bill must be approved by next year.

There are several provisions included in the bill that will be of particular interest to coastal communities:

- **Sec. 1105. Resiliency and the National Highway Performance Program.** The bill includes new National Highway Performance Program (NHPP) prioritization on measures that increase resiliency to the impacts of sea level rise, extreme weather events, flooding, and other natural disasters. The bill allows states to use up to 15 percent of their NHPP funds for protective features to improve resiliency of a federal-aid highway or bridge off the National Highway System.
- **Sec. 1106. Emergency Relief.** The bill includes sea level rise as an eligible use of funds for DOT Emergency Relief (ER) and allows the use of ER funds on protective features to improve resiliency on federal-aid highways, including: raising roadway grades; relocating roads in floodplains to higher ground; stabilizing slide areas and slopes; installing riprap; lengthening or raising bridges to increase waterway openings; deepening channels; improving drainage; replacing or upsizing culverts; installing seismic monitoring on bridges; use of natural infrastructure to mitigate the risk of storms and flooding; or other features.
- **Sec. 1109. Surface Transportation Block Grant Program – Urban and Rural.** The bill increases the Transportation Alternatives Program (TAP) set-aside and sub-allocation amounts and provides small communities greater access to TAP funding. The bill also adds new eligibilities to STBG including construction of docks and waterfront infrastructure projects.
- **Sec. 1407. Promoting Resilient Operations for Transformative, Efficient, and Cost-Saving Transportation (PROTECT) Grant Program.** Establishes a supplemental formula and competitive grant program to help states improve the resiliency of transportation infrastructure (approximately \$1 billion annually for five years for formula and competitive grants).
- **Sec. 1523. Resilience – ER Projects.** Requires the Secretary to revise the emergency relief manual of the Federal Highway Administration to include a definition of resilience, identify procedures that may be used to incorporate resilience into ER projects, encourage the use of Complete Streets design principles in ER projects, develop best practices for improving the use of resilience in ER projects, and develop and implement a process to track the consideration of resilience as part of the ER program, and track the costs of ER projects.

U.S. Economic Development Administration Disaster Assistance Grants Now Available

On August 13, the U.S. Economic Development Administration (EDA) announced that it is now accepting applications from eligible entities (which includes local governments) located in or serving communities impacted by Hurricanes Florence and Michael, as well as other natural disasters that occurred in 2018 and 2019. Funds can be used for a wide variety of activities related to disaster recovery, including economic recovery strategic planning and public works construction assistance. It is a flexible resource that responds to pressing economic issues and is well-suited to help address challenges faced by regions recovering from natural disasters. Through this program, EDA can support both the development of disaster recovery strategies and the implementation of recovery projects identified with those strategies, including infrastructure improvements.

EDA generally expects to fund up to 80% of the eligible costs. In some cases, EDA may fund up to 100% of eligible costs.

Please note there is no application deadline. EDA will accept applications on a rolling basis. More information on this funding opportunity can be found [here](#).

UPDATE ON TISPC FEDERAL ADVOCACY PRIORITIES

Poyner Spruill and The Ferguson Group (TFG) have been in regular contact with the TISPC's congressional delegation regarding TISPC's federal priorities. We have focused our advocacy efforts over the past several weeks on the Surf City and North Topsail Beach Project and the opportunity to secure new starts funding through P.L. 116-20, the *Additional Supplemental Appropriations for Disaster Relief Act, 2019* (Disaster Relief Act). We also met with TISPC's congressional delegation and Corps Headquarters on July 16 in Washington.

The current status of priority agenda items and specific updates from the July 16 meetings are outlined below.

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

During our July 16 meeting with Senator Tillis' office, the lead sponsor of the North Topsail Beach CBRA mapping bill (H.R. 2834/S. 1406), we discussed next steps to advocate for the bill. Senator Tillis' office plans to again meet with Senate EPW to discuss the issue. We also plan to meet with Senate EPW again in the weeks after Congress returns from the August recess.

We are pleased that Corey Brown (Legislative Assistant) and Adam Caldwell (Regional Representative for Eastern North Carolina) from Senator Tillis' office accepted our invitation and will be at the Commission meeting this month to discuss more about Senator Tillis' efforts working with us on behalf of the Commission.

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

Representative David Rouzer (R-NC), together with Representatives Jeff Van Drew (D-NJ) and Garret Graves (R-LA), carried out a joint effort several weeks ago in an attempt to address the sand borrowing issue legislatively. Together they submitted an amendment to H.R. 3055, a five-bill FY 2020 "minibus" appropriation bill that funds numerous federal agencies, including the Department of the Interior and U.S. Fish and Wildlife Service, which is responsible for implementation of CBRA. The amendment aimed to prevent the Department of Interior from implementing a 1994 Solicitor's Opinion that has become the Department's controlling policy regarding the CBRA and sand borrowing. This Solicitor's Opinion states that the Corps of Engineers (Corps) is unable to source sand material from within the Coastal Barrier Resources System (CBRS) for use outside of the CBRS to construct nonstructural shoreline stabilization projects like beach renourishment. The FWS has concluded that Section 6(a)(6)(G) of CBRA applies only to nonstructural projects for stabilizing the shoreline *of a unit of the CBRS*; it does not apply to nonstructural projects to stabilize shoreline *outside the CBRS*. Therefore, the Department concludes, any Corps proposed action designed to nourish beaches located outside the System using beach material taken from within the System does not meet the criteria for a Section 6(a)(6)(G) exemption.

The amendment was "Made in Order," meaning that it was approved for floor consideration before the whole of the House of Representatives. However, at the last minute, the amendment was pulled out of consideration by the House Rules Committee due to opposition to the amendment from the Natural Resources Committee, which is the committee of jurisdiction.

We will continue to work with Representative Rouzer's office, other interested Members, and the offices of Senators Burr and Tillis on additional opportunities to pursue a resolution to this issue, whether that resolution is administrative or legislative.

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

Poyner Spruill and TFG have been acutely focused on advocating for the Surf City and North Topsail Beach Project over the past several weeks. Highlights of these activities include:

- Writing a draft letter of support for TISPC's congressional delegation. This joint Representative Rouzer-Senator Burr-Senator Tillis letter was finalized and sent to the Corps on June 25.
- Writing a draft letter expressing readiness to proceed to construction for the Towns of Surf City and North Topsail Beach. The letter was finalized and sent on July 1.
- Sending copies of all letters to key South Atlantic Division (SAD) and Corps Headquarters personnel.
- Drafting a set of "talking points" on the Surf City and North Topsail Beach Project for the Towns and the TISPC to use when advocating for the project with the Corps.
- Scheduling a phone conference with the Commander of the SAD, Major General Diana Holland, and key SAD staff to advocate for the Surf City and North Topsail Beach Project. (Note: Commander Holland was promoted from Brigadier General to Major General on July 11).
- Staying in close contact with TISPC's congressional delegation and Corps staff regarding the selection process and timing for release of the Disaster Relief Act "work plan."

In addition to these activities, we met with TISPC's congressional delegation and key Corps Headquarters personnel in Washington on July 16. With the delegation, we discussed the communication that was continuing between the delegation and the Corps regarding the Surf City and North Topsail Beach Project, and our continuing advocacy efforts with the Corps. The delegation expressed optimism about the project's prospects and reported to us that no red flags have been raised about the project to them from the Corps or the White House Office of Management and Budget. In our meeting with personnel from Corps Headquarters, it was also confirmed by them that no issues have been raised about the project, and we assured them that the Towns were ready to proceed to construction of the project as soon as possible. The Corps expressed optimism about the project (of course without making any promises).

Although we were originally told that awards would be announced by late August, we were recently informed that **awards will likely not be announced for several more weeks.**