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FROM: MIKE McINTYRE

SUBJECT: NOVEMBER/DECEMBER MONTHLY LEGISLATIVE UPDATE

DATE: NOVEMBER 30, 2020

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

- Washington News
 - Status of Next Coronavirus Stimulus Package
 - Status of Budget and Appropriations
 - Status of Water Resources Development Act
 - House Approves Legislation to Increase Federal Share of FEMA Public Assistance for 2020 Disasters
- Advocacy Update

The November/December Monthly Legislative Update is the final monthly legislative update to TISPC in 2020. Any additional updates we send to TISPC between now and January will be titled as an “Addendum(s) to the November/December Monthly Legislative Update.”

Ward and Smith, P.A. and The Ferguson Group thank you for your giving us the opportunity to be of service to you this year, and we look forward to working with you again in what we expect to be another productive and successful year in 2021. Please accept our best wishes for a joyous Holiday Season and a Happy New Year!

WASHINGTON NEWS

For an update on election results and a summary of legislative activity we expect to see in the lame duck session of Congress (November-December), please see the [**TFG Special Report: Lame Duck Preview and 2020 Election Results Overview**](#), which was most recently updated on November 17. Updates on specific items of interest are provided in more detail below.

Status of Next Coronavirus Relief Package

Right now, it is unclear if Congress will be able to approve another coronavirus relief package before the end of the year. The November elections slowed down negotiations between Congressional leaders and the White House, but in the days leading up to Election Day, it seemed several major issues were already hindering the ongoing negotiations. On October 29, House Speaker Nancy Pelosi (D-CA), who has been leading the negotiations on behalf of Congressional Democrats, sent a letter to the White House’s principal relief package negotiator, Treasury Secretary Steven Mnuchin, stating that Congress is still awaiting draft

legislative language and/or responses on several issues “of critical importance,” including testing, tracing and treatment, state and local funding, schools, child care, earned income and child tax credits, unemployment insurance, OSHA, and liability. In response, Treasury Secretary Mnuchin expressed that the White House has been negotiating in good faith on these provisions, but said the Speaker has “refused to compromise” on many of these major items, including additional funding for state and local governments.

On November 4, Senate Majority Leader Mitch McConnell (R-KY) said he wanted to pass a coronavirus relief package by the end of the year, but he maintained that the House-passed HEROES Act (including the slimmed-down “2.0” version totaling \$2.2 trillion passed on October 1) is too costly and includes too many provisions that are not directly related to the pandemic. Many Congressional Republicans have expressed concern with not only the cost of the HEROES Act and HEROES 2.0 but also with the most recent proposal from the White House, which totaled approximately \$1.8 trillion.

Despite separate statements from Speaker Pelosi, Majority Leader McConnell, and President Trump regarding their desires to moving forward with a bill, no one has made a revised offer. Speaker Pelosi and Senate Minority Leader Chuck Schumer (D-NY) wrote a letter to Majority Leader McConnell on November 17 urging him to meet with them to negotiate a relief package, but substantial negotiations have not yet taken place. On November 24, staffers for Speaker Pelosi, Senate Majority Leader McConnell, Senate Minority Leader Schumer, and House Minority Leader Kevin McCarthy (R-CA) met primarily to discuss an FY 2021 spending deal as lawmakers work to meet the December 11 funding deadline (more on this below), but according to Politico Playbook, coronavirus relief was also discussed during the meeting. However, the discussion was not about a new relief package but rather, “the expiration of COVID relief-related items like pandemic unemployment assistance, student loan forbearance and the Paycheck Protection Program.” CARES Act programs such as these may receive an extension in an FY 2021 spending deal or Continuing Resolution (CR) if a comprehensive coronavirus relief package is not agreed to this year.

In addition, President-elect Joe Biden and his team now have authorization from the General Services Administration to begin the transition process, which will allow them to more robustly begin planning pandemic response and recovery efforts. Yohannes Abraham, the executive director of the Biden-Harris transition, said “transition officials will begin meeting with federal officials to discuss the pandemic response” in the days ahead.

Status of Budget and Appropriations

After months of delays, progress is finally being made on FY 2021 appropriations. However, it remains unclear if Congress has made enough progress to approve FY 2021 appropriations by the end of next week, when funding for the federal government is set to expire.

On November 10, the Senate Appropriations Committee released all 12 of its FY 2021 appropriations bills. As we previously reported, the House has already approved 10 of its 12 appropriations bills. The House and Senate Appropriations Committees are now working to “conference,” or negotiate, differences between the two sets of bills before December 11, when the current CR that is funding the federal government expires. It is unclear if Congress will be able to negotiate and approve FY 2021 appropriations before the December 11 deadline, but Congressional leaders have expressed commitment to meeting the deadline. If

Congress is not able to advance its FY 2021 appropriations bills, another CR will be required to extend current funding levels past December 11.

Last week, the chairs of the House and Senate Appropriations Committees made critical progress in the effort to meet the December 11 deadline by agreeing to “top line” spending levels for an FY 2021 omnibus agreement, which is reported to total around \$1.4 trillion for all 12 appropriations bills, as well as additional emergency spending to address the pandemic (details on the proposed emergency spending provisions are not yet known). However, House Minority Leader McCarthy expressed opposition to the agreement because the emergency spending levels go beyond the bipartisan spending caps agreed to by both parties in 2019. If Republican opposition to the agreement continues to grow, it will be difficult for lawmakers to pass an FY 2021 omnibus appropriations bill by the December 11 deadline. In the event an omnibus cannot be passed, appropriators are also preparing another short-term CR that will extend into next year.

Below is a brief summary of provisions of interest included in the Senate’s FY 2021 Energy and Water Development Appropriations bill, which includes annual funding for the Army Corps of Engineers:

- \$30,000 for New River Inlet O&M (same proposed funding level as the House)
- \$3,625,000 for Atlantic Intracoastal Waterway O&M (same proposed funding level as the House)
- Report language regarding the South Atlantic Coastal Study: “The Committee acknowledges the importance of engaging State, local, and tribal officials throughout the study process to ensure the methodology, focus, and results are implementable by States and communities. The Corps shall consult with industry groups, academia, and non-governmental organizations who can provide specialized expertise and coordinate appropriate attention and interest in the study’s design and implementation from relevant stakeholders, including coastal State agencies, local officials, and private coastal scientists and engineers. The Committee encourages the Corps to ensure due consideration of near-shore marine habitat with potential impacts of coastal flooding and inundation, including coral reefs, oyster reefs, mangrove forests, and saltwater marsh, within the scope of this comprehensive study. To enhance the value and reach of this vital planning effort, the Committee strongly urges the Corps, where possible, to ensure the full interoperability of modeling work and data analysis conducted for the South Atlantic Coastal Study and other inland flood control and aquatic ecosystem restoration projects bordering the study area, including the Central & Southern Florida Project and South Florida Ecosystem Restoration Program.”

Status of Water Resources Development Act

Informal discussions between relevant House and Senate committee staff are continuing “behind the scenes” regarding which provisions will be included in the final, compromise FY 2020 Water Resources Development Act (WRDA) bill. It is unclear when a compromise will be reached. The initial goal was to finalize and pass a bill before the November elections, but that goal was not reached. Leaders in both chambers remain optimistic that floor time can be found for a vote on agreed-upon legislation before the end of the year (Congressman Rouzer also expressed his optimism to us that WRDA will be considered this year), but with little time left on the Congressional schedule, opportunities to vote on a compromise bill are dwindling. If a compromise is not reached by the end of this week (December 4), the chances of Congress passing a WRDA this year become minimal.

House Approves Legislation to Increase Federal Share of FEMA Public Assistance for 2020 Disasters

On November 17, the House approved by voice vote the *FEMA Assistance Relief Act of 2020* (H.R. 8266), which would adjust the federal cost share for all emergency and major disaster declarations granted in calendar year (CY) 2020. The bill would raise the federal cost share of FEMA Public Assistance (PA) from 75 percent to not less than 90 percent for emergencies and disasters declared by the President in CY 2020. For COVID-19-related declarations, the bill shifts the federal cost share to 100 percent. It is unclear at this point if the Senate will consider the bill on the floor before the end of the year.

ADVOCACY UPDATE

Please note that the House and Senate are both scheduled to be in session the week of November 30. It is possible this will be the last full week both chambers are in session. The House could complete its legislative business for the year by the middle of next week (December 7-9), according to House leadership. The Senate is currently scheduled to be in session until Friday, December 18. It is possible both chambers could be in session longer if efforts to approve must-pass legislation (namely FY 2021 appropriations) is delayed.

Below are several important dates/deadlines to remain aware of over the next 1-2 months:

- December 11: Current funding for the federal government expires.
- December 14: Electoral College members meet in their respective state capitals and the District of Columbia to cast their ballots for President and Vice President.
- December 27: Federal pandemic unemployment benefits expire.
- December 31: Several coronavirus response programs expire, including student loan repayment and interest accrual suspension; emergency sick leave, family leave, and other pandemic unemployment assistance programs; and federal payroll tax payment deferral for employees.

2021

- January 3: Official start of the 117th Congress. (Since January 3 falls on a Sunday, the official start date will likely be rescheduled to January 4.)
- January 5: Runoff elections in Georgia to determine the outcome of two Senate elections. The results of these two elections will determine which party has the majority in the Senate for the next two years. If Democrats win both seats, the Senate will consist of a 50-50 split between Democrats and Republicans, with Vice President-elect Harris serving as the tie-breaking vote, giving Democrats the Senate majority. However, if one or both Democratic candidates in Georgia lose on January 5, Senate Republicans will have a majority of 51 or 52 seats for 2021 and 2022.
- January 6: The House and Senate will assemble at 1pm ET in a joint session at the U.S. Capitol, in the House chamber, to publicly count the Electoral College votes and declare the results of the presidential election.
- January 20: Inauguration Day.

Also, we are continuing to closely monitor the possible return of Congressionally-directed spending, also known as earmarks, in 2021. The return of earmarks would have a substantial impact on how we proceed with legislative and funding requests on behalf of TISPC, so it is a development we are watching with great interest and attention. At the moment, it is reported that House Democratic leaders are proceeding with plans to bring back earmarks in the 117th Congress. The three Congresswomen in the running to replace the current chair of the House Appropriations Committee (Nita Lowey (D-NY), who is retiring) have all expressed support for restoring earmarks next year. House Majority Leader Steny Hoyer (D-MD) said the new House Appropriations chair is expected to begin soliciting House lawmakers to “ask for Congressional initiatives for their districts and their states” sometime after obtaining the new chairmanship role. It is still unclear if the Senate will be willing to restore earmarks. If the Senate does not move to restore earmarks in a similar manner as the House, the effort to return earmarks will likely be jeopardized. Given that we still

do not know which party will hold the majority in the Senate next year, we will likely not get further clarity on the Senate's position on restoring earmarks until early 2021.

Updates on TISPC's federal priorities are outlined below.

Topsail Beach Sand Borrowing Issue

As you know, the [lawsuit](#) filed by the National Audubon Society (which continues to move through the legal process) will make any effort to address this issue legislatively difficult, but at this time, projects continue to move forward administratively (as we have discussed in previous Monthly Updates). Most recently, the National Audubon Society, represented by the Democracy Forward Foundation, filed a [motion](#) on November 6 for a summary judgement and to ask the court to deny the federal government's motion to dismiss the case. We will continue to monitor the situation closely and provide updates to TISPC accordingly.

North Topsail Beach CBRA Mapping Issue

We are continuing our outreach this week and next week with your Congressional delegation regarding our collective efforts to advance H.R. 2834/S. 1406 this session. As reported in the Washington News section above, despite there being few legislative days left on the Congressional calendar, nearly every major must-pass piece of legislation is still being negotiated, including FY 2021 appropriations/CR, WRDA, annual defense authorization legislation, and others. Since there will be limited floor time to consider these must-pass bills (assuming they will be considered at all), there are likely to be strict rules in place regarding the number of amendments that can be considered along with each bill (if any), and the committees of jurisdiction over the bills are likely to have their own internal agreements about which, if any, riders they will allow to move along with their bills. These restrictions will make it difficult to attach H.R. 2834/S. 1406 to any must-pass bills, leaving fewer options for passage of the bill by the end of the year. We are continuing to work with your Congressional delegation to assess options, as our options will become increasingly limited as deals on must-pass legislation continue to be delayed. Work on must-pass legislation may even be delayed until early 2021 if compromise agreements remain elusive. We will send updates on the situation to TISPC in the form of an "Addendum(s) to the November/December Monthly Legislative Update," and we will work with your Congressional delegation to assess our options should our efforts be delayed into 2021.

Topsail Beach Flood Mapping Issue

We continue to be available to assist the Town of Topsail Beach with resolving its FEMA flood mapping issue. Topsail Beach is to keep us apprised as to the status of their efforts so we can engage the Congressional delegation, as needed and as discussed.

Surf City and North Topsail Beach Federal Project

We continue to be available to assist Surf City and North Topsail Beach as their discussions continue with the Corps regarding advancement of the federal project, and we are happy to do so!