



TO: STEVE SMITH
TOPSAIL ISLAND SHORELINE PROTECTION COMMISSION
FROM: MIKE McINTYRE
SUBJECT: AUGUST MONTHLY REPORT AND LEGISLATIVE UPDATE
DATE: AUGUST 21, 2023

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

- Washington News
 - House, Senate FY 2024 Appropriators Face \$100 Billion Funding Difference
 - EPA to Use ‘Good Cause’ Authority in WOTUS Rewrite
 - Senate Begins Talks on the Next WRDA
 - Southeast Crescent Regional Commission (SCRC) Announces New Funding Opportunities
 - Legislation Introduced to Extend NFIP
 - Permitting Reform Remains a Priority for Congress
 - Interior Department Names New Principal Deputy Assistant Secretary for Water and Science
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Washington News

House, Senate FY 2024 Appropriators Face \$100 Billion Funding Difference

The FY 2024 appropriations process is in motion for both the House and Senate, with bills passing through their respective committees. However, there is a significant gap of more than \$100 billion between the two, making negotiations challenging before the September 30 deadline to avoid a government shutdown. The gap could widen further if House conservatives successfully add additional spending cuts. While Senate appropriators have completed marking all their spending bills, House appropriators still need to mark up their Commerce-Justice-Science or Labor-HHS-Education bills.

House Republicans were unable to hold a vote on the House Agriculture-FDA appropriations bill before the August recess due to conservatives advocating for more cuts. Nevertheless, the House did pass their version of the FY 2024 Military Construction-VA spending bill. On the other hand, Senator appropriators are seeking a supplemental spending bill to aid Ukraine and address natural disasters.

The House is set to reconvene on September 12 with an intense schedule, aiming to pass the remaining 11 annual appropriations bills and reconcile differences with the Senate within just 12 planned workdays. Given the challenge of passing all 12 bills and resolving significant spending disparities between the House and Senate, it is likely that a stopgap continuing resolution (CR) will be necessary to keep the government funded beyond the September 30 fiscal year end.

EPA to Use ‘Good Cause’ Authority in WOTUS Rewrite

The Environmental Protection Agency (EPA) has recently revealed its intent to expedite the revision of the definition of "waters of the United States" (WOTUS) in response to the Supreme Court's *Sackett v. EPA* decision.

To meet the September 1 deadline for the revised final rule, the EPA will employ statutory authority to bypass typical notice-and-comment procedures by citing "good cause." The revised final rule is currently under review by the White House Office of Management and Budget (OMB). The EPA's "good-cause" rulemaking process has already led to litigation stays in two of the three legal challenges against the previous WOTUS rule.

Once finalized, the EPA plans to engage in discussions with stakeholders to address questions about the scope of WOTUS under the Clean Water Act, influenced by the Sackett decision.

Senate Begins Talks on the Next WRDA

In recent weeks, the Senate Environment and Public Works (EPW) Committee initiated discussions on the upcoming Water Resources Development Act (WRDA) bill, emphasizing the importance of early action to build upon the successes of previous WRDAs. These bills play a crucial role in addressing the nation's infrastructure challenges, enabling the Army Corps of Engineers (Corps) to receive new authorizations for vital projects related to locks and dams, ports, environmental restoration, and climate resiliency initiatives.

In last month's hearing, various issues were deliberated upon. One notable topic involved providing the Corps with permitting reforms to expedite project construction. Although the recent debt ceiling deal already introduced reforms to the National Environmental Policy Act (NEPA) process, further discussions persist on additional measures to accelerate infrastructure projects.

Moreover, the Committee highlighted the urgent need to address exceptional droughts and worsening floods in different regions of the country, which have emerged as critical considerations for the forthcoming WRDA bill.

Southeast Crescent Regional Commission (SCRC) Announces New Funding Opportunities

The Southeast Crescent Regional Commission has recently announced the availability of \$20 million in grant funding, available to communities across the Southeastern United States, including North Carolina. Eligible uses for the funding include a wide variety of economic development and infrastructure projects, such as telecommunications, drinking water, wastewater, beach access, tourism, and environmental conservation.

Congressman McIntyre introduced the legislation authorizing the Commission during his service in Congress. More information on this funding opportunity is available [here](#) and [here](#).

Legislation Introduced to Extend NFIP

Senator John Kennedy (R-La.) recently introduced the [National Flood Insurance Program \(NFIP\) Extension Act of 2023](#) to prevent the NFIP from expiring on September 30, 2023.

The proposed legislation aims to extend the NFIP for one year, until September 30, 2024.

Permitting Reform Remains a Priority for Congress

Several members of Congress, including Rep. Garret Graves (R-La.), continue to discuss federal permitting reforms despite the Fiscal Responsibility Act rewriting some permitting laws, including parts of the National Environmental Policy Act (NEPA). Rep. Graves has been in talks with Sen. Joe Manchin (D-W.Va.) and Sen. Kyrsten Sinema (D-Ariz.) about a negotiated deal.

The push for speedy infrastructure projects, crucial to Democrats, funded by the bipartisan Infrastructure Investment and Jobs Act (IIJA) and the Inflation Reduction Act (IRA), is driving the interest in further permitting reforms in Congress. However, reaching a deal will be complex and may take time, with several ad hoc groups in Congress currently discussing the specifics and strategies to move forward.

Interior Department Names New Principal Deputy Assistant Secretary for Water and Science

The Department of the Interior recently appointed Michael Brain, the Deputy Commissioner of the Bureau of Reclamation, as the new Principal Deputy Assistant Secretary for Water and Science. He takes over the responsibilities previously held by Tanya Trujillo, who became Assistant Secretary for Water and Science on June 25, 2021, but resigned on July 17, 2023. Michael Brain had been serving as the Deputy Commissioner for External and Intergovernmental Affairs of Reclamation since March 2022.

ADVOCACY UPDATE

Congress' departure for its annual August recess – a chance for members and their staff to return to their districts and states for an extended period of time – ensures that August will be a quiet month for legislative action. Both the Senate and the House face impending deadlines to pass federal budget legislation and reauthorize many important programs before the end of Fiscal Year 2023 on September 30, 2023. These include programs relating to nutrition assistance, voluntary conservation, water infrastructure, and more. It is highly likely that Congress passes a Continuing Resolution – a stopgap, temporary funding bill that funds and reauthorizes many of these at existing levels until a permanent budget can passed.

North Topsail Beach CBRA Mapping Issue

Previous meetings that your advocates at Ward and Smith (W&S) and The Ferguson Group (TFG) held with your Congressional delegation to discuss CBRA mapping issues and its impact on North Topsail Beach and surrounding environs were fruitful. Your congressional delegation remains supportive of the changes being proposed for inclusion in the *Strengthening Coastal Communities Act* (SCCA). Senator Tom Carper (D-DE) introduced this legislation in the previous Congress, but it has yet to be reintroduced in the current session of Congress. As a reminder, this legislation implements 11 new and 184 updated Coastal Barrier Resources System (CBRS) maps across the United States, including North Carolina. We advocated extensively to your congressional delegation that TISPC's priorities be addressed in the legislation. This resulted in the inclusion of language in the bill which would remove 2.5 acres of Barton Bay from Topsail Unit L06, including two structures along Barton Bay Drive and New River Inlet Road, as well as a portion of one lot to the south of New River Inlet Road.

Congress' delays in recent months spurred by the debt ceiling debate, and extended by the previously discussed August recess, have put a variety of legislative priorities on hold while Congress debates legislation addressing deadlines looming at the end of the current Fiscal Year. We are optimistic that Congress will turn to legislative priorities like this after addressing the deadlines looming at the end of FY23. Furthermore, Senator Carper's impending retirement in 2024 should provide an opportunity for a number of his priorities to be given favorable consideration, particularly given his seniority. He is a long-serving Senator and Congressman, as well as a decades-long friend of President Biden.

We understand that Annick Miller, a senior staffer for the House Natural Resources Committee, had the opportunity to visit the area and discuss the issue with Alderman Leonard and NTB Town Manager Derian. We are excited that Ms. Miller had this opportunity to visit North Topsail and see the issues caused by oversights in CBRA mapping firsthand. We also understand that Ms. Miller has offered the possibility of testifying before her committee to NTB officials for a potential hearing in late September. Her influence and expertise in service to the Natural Resource Committee will be invaluable to advancing TISPC's legislative priorities.

Sand Borrowing

The recent [announcement](#) by the Biden administration and the U.S. Army Corps of Engineers to fund sand borrowing under an emergency exemption at Wrightsville Beach from the CBRA is welcome news. We are hopeful that this renourishment will be carried out with all due expediency.

Since our previous report, there has been no further movement on Congressman Rouzer's [legislation](#) to create an exemption to the restriction on the use of federal funds for certain shoreline borrow sites within the CBRS. Most recently, the bill received a legislative hearing on May 10, 2023 before the House Natural Resources Committee. We are optimistic that the bill will receive further consideration and progress through the legislative process later this year. However, the backlog of priorities for Congress to address, and the ticking clock they are up against, may delay this significantly.

Rep. Rouzer's [bill](#) to create an exemption to the restriction on the use of federal funds for certain shoreline borrow sites within the CBRS, received a legislative hearing on May 10, 2023 in the House Natural Resources Committee. No further action has been taken on this legislation since our June Monthly Report. As previously reported, TISPC would not currently qualify for exemptions under this bill but would qualify upon reaching the 15-year threshold set forth in the legislation. This exemption would enable TISPC to use sand from the New Topsail Inlet and New River Inlet CBRA zones for non-CBRA zone beach renourishments even when Federal monies are involved.

FEMA Issues

The tragic and devastating wildfires that claimed the lives of over 100 people and destroyed the town of Lahaina, Hawaii, have placed renewed scrutiny on FEMA-related policies and procedures. As you may recall, several FEMA-related rules and proposals were included in President Biden's 2023 Spring Regulatory Agenda (the Agenda), including one to update federal flood standards. Though this proposed rule is not directly related to the disaster in Hawaii, there is potential for some of these proposals to be fast tracked in light of these events. We will continue to monitor FEMA's response to the fires and related scrutiny in order to discern any potential or probable outcomes in the aftermath.

The Agenda also noticed an Interim Final Rule (IFR) to improve the efficiency of FEMA's Individual Assistance Program, expected to be published by October. Pressure on FEMA to disburse funds to victims and survivors of the Lahaina fire and other related disasters may push this deadline to a point nearer in the future.

Surf City General Reevaluation Report (GRR)

Your advocates at W&S and TFG stand ready to assist the Commission on the Surf City General Reevaluation Report (GRR) at the Commission's discretion as the need may arise. We certainly want to see this hard-fault victory come to full fruition.

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